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CHIGNECTO MARINE TRANSPORT RAILWAY CO., LTD.

REPORT

BY

A. D. PROVAND, M.P.,

Relating to the Negotiations with the Canadian Government for the Reinstatement of the Company or for Payment of Compensation.

Presented at a Meeting of the Share and Debenture Holders held Friday, August 4th, 1899.

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CHIGNECTO MARINE TRANSPORT RAILWAY COMPANY, LIMITED.

To the Debenture and Shareholders of the Chignecto Marine Transport Railway Company, Limited.

GENTLEMEN,

The last Meeting we held to consider our position with regard to the Canadian Government was on the 19th May, 1898. On that occasion I placed before you all the correspondence we had with the Government to that date. We were then waiting for a further reply from the Sub-Committee of the Privy Council, to whom our claim had been referred, in regard to the parts of their Report of January previous which Sir Wilfrid Laurier had, in compliance with my request, referred back for reconsideration.

The following Members of the Cabinet form the Sub-Committee :—

Hon. W. S. Fielding, Finance Minister and Convener.
Sir Richard Cartwright, K.C.M.G., Minister of Trade and Commerce.
Sir Louis Davies, Minister of Marine and Fisheries.
Hon. A. G. Blair, Minister of Railways and Canals.
Hon. J. I. Tarte, Minister of Public Works.
Hon. R. R Dobell (without portfolio).

No further report having been received down to the following October, I went to Ottawa and had an interview with the Sub-Committee, the outcome of which was that they requested me to formulate and send them proposals for a settlement of the Company's claims. After my return the committee met, and we settled these, which I embodied in two letters addressed to Sir Wilfrid Laurier and the Hon. W. S. Fielding, the Convener of the Sub-Committee. In answer to these letters we have received a Report from the Sub-Committee, to which I have replied. All these documents are printed herewith.

Besides the two letters above mentioned I addressed another letter to the Hon. W. S. Fielding, explaining the manner in which contracts similar to that for the Chignecto Railway are undertaken and carried out, and on account of the

bearing which this has on the subject I have to ask that you will read this letter as well as the others.

It is unnecessary for me to write any lengthened Report as a perusal of the letters in the order in which they are printed herein gives a full account of what has passed with the Canadian Government.

Briefly stated, what we asked the Government to do was to reinstate the Company in possession of its subsidy and we would complete the Railway. At my interview with the Sub-Committee last October they led me to understand that the Government were not inclined to do so. Our second proposal was, therefore, that if they decided not to reinstate us, the Government should then pay us $2,000,000 as compensation for the loss of our contract and subsidy, but if they objected to this sum we were agreeable to leave the amount to be paid to us to be settled by arbitration. I venture to say that no more reasonable proposals could be made, but you will find on reading the Report of the Sub-Committee that they say they cannot recommend Parliament to reinstate us or to pay $2,000,000, or to submit the question of the sum to be paid to us to arbitration.

You are already aware of the fact that our claim has been made a party question in Canada—a point with which I deal on page 39. Meantime I may remind you that the last Administration recognised by Order in Council our moral right to reinstatement, and if they had been returned at the General Election they would have undoubtedly promoted the necessary legislation to replace the Company in possession of its charter and subsidy. The rejection of our proposals is therefore only that of the present Administration, and I counsel you in the strongest way not to consider that there is any finality in this refusal. I urge you to maintain the position you occupy of insisting upon the Company's moral claim to be recognised by the Government and satisfied either by direct negotiation or by arbitration, even if you have to wait for this recognition until another Administration comes into power.

On this point I desire you to read carefully the speech of Sir Charles Tupper, then Premier, and now leader of the Conservative Opposition in the House at Ottawa on the second reading of the Company's Bill, 9th March, 1896, which is reprinted in the Appendix.

The three letters to Sir Wilfrid Laurier, Premier, and to the Hon. W. S. Fielding, Convener of the Sub-Committee, containing our proposals, alone fill nearly the half of this pamphlet and the rest is occupied by my reply to the Reports. I make no apology for the length, as in order to deal with the statements of the Sub-Committee for rejecting our proposals many points had to be referred to. A summary, beginning on page 42, gives a *résumé* of some of the important facts, but I recommend every investor to read the entire correspondence in order to understand the positions occupied by the Canadian Government and the Company towards each other. In reprinting the correspondence it is unavoidable that some repetition should occur by the same point being referred to more than once.

A. D. PROVAND.

2, Whitehall Court,
London, S.W.
Jan. 13*th.*, 1899.

To the Right Honourable,
Sir Wilfrid Laurier, M.P.,
President of the Council,
Ottawa.

CHIGNECTO RAILWAY.

Dear Sir Wilfrid Laurier,

In the letter of the 18th April, 1898, which you were kind enough to send me you informed me that the Report of the Sub-Committee of the Privy Council would be referred back for further consideration on the grounds stated in my letters to yourself dated 26th March and 1st. May last year.

As six months elapsed without any further communication having been received in regard thereto I went to Ottawa last October and had the pleasure of meeting the Sub-Committee, namely:—The Hon. Sir Richard Cartwright, the Hon. A. G. Blair, the Hon. W. S. Fielding and the Hon. Sir Louis Davies.

We met in the Finance Minister's room and discussed the question. The Sub-Committee asked me if I had authority to settle the business with them. I explained that we were still without their reply to my two letters referred to above and that all I could do was to ascertain their views and place them before the investors' Committee.

Briefly stated I gathered from the Sub-Committee that the Government did not favour the reinstatement of the Company, but they said they would consider any proposal for a settlement by compensation which I might place before them. In the event of our being unable to agree on a sum I proposed that this point should be settled by arbitration, but they expressed themselves as not favoring such a course.

In reply to the Sub-Committee's questions on the subject, I repeated in substance what I said to yourself when I had the honour of meeting you in London in 1897 to the effect that if the Government made a proposal to pay us half the amount which the Company had expended on the undertaking, I would endeavour to induce the investors to accept it.

The Sub-Committee said that they would have difficulty in obtaining the assent of Parliament to any large claim, but they would not say what sum they considered large, nor give me any idea what amount would be considered reasonable by them. I was therefore left without any indication as to their views on this point.

Being without the power to make any definite offer, I said I would, on my return, place their statements before our Committee and endeavour to arrive at a

conclusion as to the terms on which we should be prepared to settle our claim on the Government. Since my return to London our Committee have, therefore, met and considered the question of compensation.

I enclose herewith copies of two letters to the Hon. Mr. Fielding, to whom I have written as Convener of the Sub-Committee. The first letter contains the proposals of our Committee, to which I believe we could obtain the consent of our investors. The other letter shows how Contracts similar to that for the Chignecto Railway are undertaken and executed, and I beg to draw your attention to the statements therein.

When you receive this letter it will be nearly seven years since my first visit to Ottawa in connection with this unfortunate business, and I have been eight times since, making nine visits altogether. It is more than four years since the Company was ready to recommence construction and complete the Railway, and the delays in settling this business subject the Company to continuous loss, caused by the heavy current expenses, the maintenance of the plant, and by deterioration of the materials. Some postponements were perhaps unavoidable from circumstances to which I need not more particularly refer. This was notably the case with the last Administration.

Having at the request of the Sub-Committee now made proposals to them, I am ready, on hearing from you by cable, either direct or through the High Commissioner, to proceed to Ottawa at once and endeavour to come to a settlement previous to the meeting of your Parliament, in order that you may bring it before the House during the coming Session. If it is further postponed—even for a few weeks—another year must elapse before any arrangement can be concluded.

We have not varied our position. Our investors stand ready—

Firstly, to accept the re-enactment of our subsidy with time to complete the railway ; or

Secondly, to agree to an amount as compensation for being deprived of the subsidy ; or

Thirdly, failing to agree on a sum, to refer this point to arbitration.

I venture with all respect to say that it is impossible to formulate any fairer proposals.

Many expressions of sympathy—both written and verbal—towards our investors have reached me from Senators and Members, also from Ministers of both Administrations. I hope the sincerity of these will be confirmed by your Government at once taking up our case and carrying it to a definite settlement. Our faith in the original assurances given to us has been proved by our having expended about £800,000 on a public work, initiated in Canada and promoted entirely by your Government and Parliament. Our unfortunate position is the direct outcome of the operation of sub-section 4 of Clause 93 of the General Railway Act of 1888, which you were afterwards compelled to repeal as a legislative error. We have not injured in the slightest degree any interest in Canada, but have enriched the Provinces affected by the expenditure of several hundred thousand pounds, while all that can be said against us is that we were technically in default in regard to the time within which the work was to have been completed.

Besides the amount we expended, namely about £800,000, fully £300,000 has since been lost in the form of accrued interest, making altogether £1,100,000. If we were to receive $2,000,000, say £412,000 from your Government, even as early as June next, the Company, after meeting their obligations, would return to our investors very little more than the amount of the accrued interest. Their actual loss would still be about the £800,000 expended on the Railway.

Our registered investors number only a few hundreds, but the Debentures and Shares were taken so largely by finance companies that the persons interested aggregate many thousands. Everyone interested must be informed of the details of the history of these negotiations. And I am sure there is not one of them nor of those within reach of their influence who would again accept any risk depending on a Canadian Government Subsidy or guarantee unless our claim is settled in such a way as to leave behind it a sense of fair treatment under the circumstances.

The financial crisis from 1891 to 1894 affected the completion of railway enterprises throughout the world. Several lines in the Argentine Republic in which British investors were largely interested were stopped by the crisis, and although their Government was in many cases without legal responsibility, nevertheless, when their finances were again in a satisfactory condition they waived every question of this kind, and have paid about £10,000,000 in settlement of claims. Their postponement of a settlement did not arise from any desire to escape responsibility but from inability to meet obligations during the years referred to because they had entered into contracts beyond their means for the time being. Hundreds of those interested in Chignecto were also holders of Argentine railway securities, and some of them are continually drawing my attention to the different treatment they have experienced from the two Governments.

Communications also reach me frequently from investors to the effect that they are totally unable to understand why the Canadian Government, which by their Acts and representations induced them to invest £800,000, intended, as they believed, to benefit Canada, will now allow year after year to pass without coming to an agreement with regard to the claims which arise therefrom. I do trust, however, that we are now within sight of a settlement, for I can assure you that these repeated delays have rendered still more acute the disappointment felt by all who have placed their money in this Canadian enterprise. I hope I am entitled to confidently believe that when the circumstances are fully realised you will arrive at the conviction that the unfortunate investors in the Chignecto Railway securities deserve liberal treatment at the hands of the Dominion Government.

I am, dear Sir Wilfrid Laurier,

Yours very faithfully,

(Signed) A. D. PROVAND.

2, Whitehall Court,
London, S.W.
January 13*th*, 1899.

To the Honorable
W. S. Fielding, M.P.,
Minister of Finance,
Ottawa.

CHIGNECTO RAILWAY.

Dear Sir,

As you are Convener of the Sub-Committee of the Privy Council to whom our Memorials to the Government in connection with our claims have been referred for consideration and report, I beg to address you on the subject.

Since my return to London there has been a meeting of the Committee composed of a few of the principal investors to whom I explained what took place when I had the pleasure of meeting the Sub-Committee at Ottawa. I informed them that I requested the Canadian Government to reinstate the Company in possession of its subsidy with sufficient time to complete the Railway, but if it was decided not to do so then that the Government should grant us compensation, and if we failed to agree upon the sum to be paid that the amount should be referred to arbitration.

I have stated to them that from the replies of the Sub-Committee I gathered that the views of the Canadian Government were against the reinstatement of the Company and that as to the amount of compensation they objected to having it referred to arbitration, but they were ready to consider any proposals we might have to make for a settlement of the Company's claims.

The above, I think, sets out the material substance of my requests and the way in which they were received.

Our Committee have therefore met and considered the question and they desire me to lay the following statement before you. The Committee represent the owners of the Company's issues to the amount of about £500,000, and they propose to approach the question on the understanding that they would engage to do all they could to obtain the consent of the other investors and expect that the Sub-Committee would on their part undertake to do all they could to induce Parliament to agree to any arrangement come to.

The Sub-Committee may possibly think that the Committee might call a meeting of all the investors, and obtain their consent in advance to our proposals. This would be impracticable. We know that there are among our investors some, who, if allowed to deal beforehand with the negotiations, would make almost any settlement impossible. The feelings in the minds of many of them as to our treatment are too strong to give us the slightest hope of being able to carry any meeting called to consider terms in the preliminary stage. It would be different if they were asked to assent to terms agreed upon with the Sub-Committee.

PROPOSALS.—The proposals I have to make on behalf of our investors are :—

Firstly, that the Government shall pay to us in cash $2,000,000, to be divided in agreed proportions between the owners of the Company's Debentures and Preference and Ordinary shares as compensation for being deprived of the Subsidy.

Secondly, that if this is not agreed to that the amount to be paid shall be referred to arbitration.

Thirdly, that the Government shall make the amendments to the Company's charter hereinafter referred to.

As regards the first proposal I would observe that if we had been permitted to complete the Railway in 1894, when we were ready to do so, the Company would since then have regularly received its subsidy and the Debenture holders would have had their interest secured. It is also likely that the Preference shareholders would have received their agreed interest or at least a substantial portion of it. Leaving out the Ordinary shares, on which it is improbable that there would have been any payments of interest in the early years of the enterprise, the accumulated interest due and unpaid on the Debentures and Preference shares alone amounted on the 31st December last to £299,500. Adding this to the capital expended, we have a total of about £1,110,000, which the undertaking has cost the investors, and $2,000,000, say £412,000, would be about 37 per cent on this amount. Besides this, we should have the Railway which, however, if sold. would realise only a fractional percentage of its cost. It is doubtful if all it would bring would make up the total return to the investors to 40 per cent. of their capital and accrued interest—a truly melancholy ending to our enterprise which we entered upon with every assurance of success that investors could look for from public bodies and public men in Canada and the Canadian Parliament itself.

The Members of the Sub-Committee sought in the strongest way to impress upon me the difficulty they would have in inducing Parliament to agree to any large amount of compensation. In reply to this, I beg to say that our Committee do not fear the result of the judgment of your House being taken, provided the question is fully and fairly placed before it. I would submit that I cannot for a moment suppose that your Parliament would consider a return to the investors of 40 per cent. of the total amount they have lost a large amount of compensation.

With regard to the second proposal, I would observe that referring the amount of compensation to arbitration would in our view simplify the application to Parliament. It would be the means of furnishing the House with a judicially considered statement of the facts, and consequently make it easier for it to arrive at an equitable judgment. To refuse arbitration—which we consider the best method of arriving at a just settlement—might prevent the possibility of the matter being fully examined by the House. Parliament could with comparative ease arrive at a conclusion respecting the grounds on which any award might have been given and refuse or accept it, but, with all respect, I beg to submit that if Parliament is not placed in possession of a full statement of the facts it could not in the course of debate deal adequately with the question.

I desire to impress on the Sub-Committee how greatly we shall be prejudiced by a refusal to permit the question of the amount of compensation to be settled

by arbitration, as this would deprive us of the opportunity of showing to Parliament by the impartial arbitrament of others the extent of our loss and suffering, and what we are entitled to in reasonable satisfaction of our claims.

I shall now deal with the third proposal, namely, certain suggested amendments to the Company's Charter.

What the investors will do with the Railway after any compensation settlement has been come to is a matter regarding which the Committee are unable to say anything. They might agree to dispose of it or to complete it. If it was decided to complete it there are some amendments to the Company's Charter which in the public interest it would be advisable to make at the same time as we settled the compensation.

The following are the amendments to which I refer :—

1. Amherst is a growing town and there is already a considerable, although a scattered population in the district at the Tidnish end of the line. It might, therefore, be of advantage, if the Company were permitted to run passenger and freight trains between Amherst and Tidnish, with power to connect with the Cape Tormantine Railway and having running powers over the Intercolonial Railway.

2. The Railway would afford an outlet for the shipment of Nova Scotia coal to Quebec and Montreal by the St. Lawrence. It would, therefore, be advantageous to grant the Company special rates for the transport of coal from Springhill Junction and intermediate points to the Railway.

3. During the period of construction the transportation charges paid to the Intercolonial Railway on the ties alone came to a sum of about $20,000. There were also large amounts paid for the carrying of other materials, of which I have no particulars. We think, therefore, that special rates should be made for the carriage of such further materials as we should have to bring on the ground for the construction and service of the Railway.

4. Part of the machinery and plant ordered in this country, without which the Railway could not be completed, is still unshipped. The Company has already paid more than $100,000 for duties on materials imported and we think that it would be an equitable concession if it was released from liability to pay duty on the remainder of such materials.

5. At the present time there are no works in Canada for the creosoting and preservation of timber. The Government is continually purchasing creosoted piles and other timber in the United States for use on the coasts of the Maritime Provinces. The Isthmus of Chignecto might be found a suitable place on which to erect plant for this purpose, as timber could be brought up the Bay of Fundy or by the Intercolonial Railway or down the St. Lawrence. The situation has facilities for receiving and also for despatching timber after having been subjected to the necessary process. The Company might, therefore, lay down the necessary plant and machinery for this work if the import duty on the plant, which I believe must be made in this country, were remitted, and also the duty on the creosote and other preservative preparations, which would have to be imported during a number of years until the works had time to become self-supporting. A new industry would then be introduced to Canada and the Government and the Maritime Provinces could be supplied with creosoted timber without importations from abroad.

Of the foregoing concessions the only one which might be considered personal to the Company itself would be the remission of duty on the import of materials required to complete the line. The others could only be indirectly to the Company's benefit, and the public interest would be served by them all.

In conclusion, I beg to say that should the Sub-Committee of the Privy Council be unable to recommend to Parliament the acceptance of these proposals then we desire to revert to our present position, namely that of having an indisputable moral and equitable claim on the Canadian Government for reinstatement, or, if this is refused, then for compensation, the amount of which we are willing to leave to be settled by the award of competent arbitrators.

Further, if the Sub-Committee should on consideration come to the conclusion that the question of the amount of compensation may be settled by arbitration, then we desire that no reference to these proposals should be made before the arbitrator. Our wish is that we should enter upon the reference as if they had never been made.

Finally, I beg to submit that in any case this letter shall be taken as without prejudice to the position of our Company.

I attach hereto a Memorandum giving particulars in reference to enquiries made by the Sub-Committee in regard to the capital created and expended, the actuarial value of the subsidy, the estimated cost to complete the Railway, and probable value of the Works as they stand.

I am, Dear Sir,

Your obedient Servant,

(Signed) A. D. PROVAND.

Memorandum of particulars asked for by the Sub-Committee of the Privy Council at their Meeting on Wednesday, 10th October, 1898.

CAPITAL AND EXPENDITURE.—I have in my letters said that the amount of the expenditure was about £750,000, but I find on reference to the accounts that the Engineers' Certificates exceeded this amount and that the expenditure was rather more, namely, about £800,000.

The following shows how the Capital was raised and how it was expended.

The securities issued by the Company were as follows :—	£
Debenture Bonds.—Amount authorised, £700,000 ; amount issued	405,900
Of this, £250,000 were issued at £8 10s. premium, making an additional ...	21,250
Preference Shares.—Amount authorised, £300,000 ; amount issued	300,000
Ordinary Shares.—Amount authorised, £100,000 ; amount issued	81,900
Making the total of the Company's issues	£809,050

How the Capital was expended is readily ascertained by reference to the original Contracts for the Railway.

There were two Schedules prepared—one for the work to be done in Canada, namely, the Line of Railway, Docks, Building Engine and Boiler and Hydraulic machinery houses ; erecting the machinery for the Locomotives, and in other ways amounting to	702,105
The other Schedule was for expenditure to be incurred in England for Steel Rails and the necessary fittings, Hydraulic and other Machinery with Freight and Insurance on the same which came to	227,895
Making a total of	£930,000

N.B.—There were also other works and extras which would have to be executed before the Railway was opened for traffic. The above amount of £930,000 did not therefore represent all that the Railway would finally cost.

	£
Against the above there were Engineers' Certificates issued for work done and machinery supplied to 4th September, 1891, amounting to	765,894
And payments made to the Engineers for engineering expenses, amounting to	22,000
And afterwards there was expended in Canada on the Works	8,924
Making	£796,818

paid on account of the Railway Works to 30th April, 1898.

Besides the foregoing we have paid for Caretakers, for Insurance and Rents, for Taxes (which last have alone amounted to thousands of dollars since construction was suspended), and in other ways. These disbursements amount to several thousand pounds. There have also been the expenses in London for offices, secretary, and miscellaneous outlay connected with the administration of the Company's affairs.

Adding these to the amount expended on the work it will be seen how the whole of the capital raised has been paid away. Indeed, besides having exhausted the proceeds of our issues the Company have, since the work was stopped, incurred liabilities for additional sums advanced and expended on the works, and have also accumulated obligations for rents, salaries, legal expenses, trusteeship charges, fees, and for other purposes, amounting to £21,447.

Of the total capital required to construct the Railway according to the original contracts, the amount to be spent in Canada was about three-fourths of the whole, and the actual expenditure made has been in about this proportion. By far the largest part of the Company's capital has, therefore, been laid out in Canada, almost entirely on labour and materials.

Value of Subsidy.—I have referred to the statement sent to the Hon. Geo. E. Foster in 1895, and find that the following is the actuarial valuation I obtained, taking interest at 3 per cent. per annum, the rate at which the Canadian Government then borrowed money.

The Subsidy to the Chignecto Company is $170,602, which at $4·86⅔ Exchange equals £35,055 4s. 2d. per annum. The present value of a subsidy of this amount per annum for twenty years, payable half-yearly, taking interest at 3 per cent., is £524,352 5s. 11d.

The rate of interest the Government now pays for money may be taken at 2·70 per cent., and I have had the subsidy re-valued at this rate and find its present value equals £539,029 18s. 3d.

Cost to Complete the Railway.—I have referred and find that Messrs. Pearson and Son's Contract amounted to £288,411. But the value of the materials on the ground must now be considered as having been taken too high, as there has been considerable deterioration since the Contract was prepared in the Spring of 1894. The sums for Machinery and for Freight and Insurance on the same were also taken too low. The cost of the steel wheels for the cradles I find was omitted. Correcting the estimate by a deduction from the value of the materials and by an addition to the cost of machinery would make the total amount of the contract to complete the line exceed £300,000.

Sale Value of the Works.—I would call the attention of the Sub-Committee to the fact that the sale value of the Company's property is very small. The work has been constructed and the machinery designed for the special purpose of a Ship Railway, and there is but little of it that could be used at all for any other purpose and such parts would realise only a small sum. Some of the materials are so deteriorated as to be nearly without value. This is the case with the ties and other timber which cost a large amount, none of which could now be used for the Railway. It is also the case with thousands of barrels of Portland cement which has so much deteriorated in quality by keeping that it could not be used for any except subsidiary parts of the work. For all the dock work fresh cement would have to be imported.

As few persons except those engaged in making or executing Contracts are aware of the conditions under which works such as Railways, Canals, Docks, and Tunnels are carried out, the following letter was written to show how such enterprises are undertaken and dealt with:—

2, Whitehall Court,
London, S.W.

To the Hon. *January 13th*, 1899.
W. S. Fielding, M.P.,
Minister of Finance,
Ottawa.

CHIGNECTO RAILWAY.

Dear Sir,

Some Contracts for extensive under-water works have recently been entered into in London which illustrate so clearly how such are undertaken and bear so strongly on the case of the Chignecto Company that I feel warranted in addressing you on the subject in order that you may lay the particulars before the Sub-Committee.

The Contracts to which I refer are the following:—

For a Tunnel under the Thames for the London County Council;

For the construction of a Barrage on the Nile for the Egyptian Government;

For Admiralty Harbour Works at Dover and at Gibraltar.

All these Contracts are for works in their nature the same as that of the Docks at Chignecto, *i.e.*, the foundations and other important parts will be under water. The first two will be under rivers, the other two under the sea.

Before Contracts are let for such undertakings, Plans and Specifications are prepared by Engineers. Borings are made to ascertain, so far as may be practicable, the nature of the ground. The quantities are calculated and an estimate

of cost is made. And on these detailed particulars Contractors tender for the work in competition with each other, each estimating for himself what it may cost with a margin for profit.

Notwithstanding that borings have been made it is impossible for anyone to know accurately what difficulties will be encountered until the Works are actually in course of construction. The information obtained by borings is not always reliable and it has been found in some instances to be directly misleading. Consequently there is in all such contracts much uncertainty as to the difficulties which will have to be overcome.

There are, therefore, two risks connected with these Contracts ; firstly that of the cost of execution, and, secondly, of the time for completion. The first risk a Contractor will take, but the second risk is one he will not take except on such extraordinary terms as it would be almost impossible for him to obtain. For this reason the risk of the time that may be required to finish the work remains with the other party, and is not taken by the Contractor.

The above is the usual division of the two risks. It would hardly ever be possible for those for whom such Works are carried out, namely Governments or public bodies or Companies, to enter upon such undertakings without first knowing the price to be paid, as they have to make provision for this before the Contract is settled. But their position in regard to the question of time is quite different, and in any case they must perforce wait until a reasonably diligent Contractor can complete the work, no matter how long it may occupy.

It will thus be seen that Contracts of this kind stand in a class by themselves and if the risks were not divided as above then Contractors would never undertake such works, and they would have to be executed, if at all, by those who wanted them.

In my letters I have said that in Contracts for subaqueous work the time for completion is, and indeed must always be, stated ; but the object of doing so is to prevent men of straw entering into such Contracts and to ensure that the Contractor will carry out the work with reasonable diligence, and when he does so he is entitled to whatever extensions of time he may require to complete it.

For example, the London County Council have let the Contract for the Tunnel under the Thames, and the Solicitor to the Council, who attends to this business, has informed me that should the Contractor find that he will be unable to complete the work on the contract date, he will apply to the Engineer to the Council for an extension, and on the recommendation of the Engineer this will be given. The Contracts with the Admiralty contain penalties as well as dates for completion ; but on calling there a few days ago I was assured that they were unaware of ever having exacted a penalty from a Contractor, although pro vided for in every Contract. They, like others, on the reasonable applications of Contractors extend the time until completion. The Contract for the Barrage in Egypt will take several years to execute, and the Egyptian Government pay nothing until after it has been completed. In this case also the time, if neces, sary, will be extended on the recommendation of the Engineer who is acting for the Government. Therefore if the Contractors who have taken these works believed there was the smallest risk of the London County Council, or of

the Egyptian Government, or of the Admiralty refusing all the time that might be required to complete the contracts, it is certain they would not for a moment entertain the business nor could any responsible Contractors be found who would do so.

The Canadian Government stands in the same position towards the Chignecto Railway Company as the London County Council, the Egyptian Goverment, and our own Admiralty do towards the Contractors who have undertaken to carry out the Contracts referred to, and our Company has been since June, 1894, and is now ready to recommence construction and complete the Railway on receiving the necessary extension of time and a re-enactment of the Subsidy. Now if we had supposed it possible that we should not be granted as long time as we required to complete the Railway—on which we spent our own money, the extra time required being without prejudice in the slightest degree to any interest in Canada—then it is certain that the Directors would not have asked our investing public to find capital for the undertaking. And with all respect I further say that if the Canadian or any Government or public body were to state in advance that they would treat a contracting Company—*i.e.*, a body of investors—as we have been treated in regard to extensions of time, it is almost certain that they would not be able to obtain a shilling of our people's money.

The risk the Contractor does take, namely of what a work may cost, sometimes results in serious loss. In making the Port Talbot Docks in Wales, now nearly finished, the Contractor found that in order to obtain proper foundations he had to put in 30,000 cubic yards of concrete, costing $150,000, in addition to what was originally calculated as necessary. He took the risk of this, and by doing so he was unable to complete the Docks in the stipulated time, and if those for whom they were constructed had exercised all the powers which they might legally possess, it would be impossible for them ever to obtain another Contractor for any future work. Messrs. Meiggs and Company, the Contractors to our Company, had the same experience with the Chignecto Railway, as they had to excavate 24 ft. deeper than was intended by the original plans in order to obtain dock foundations which would satisfy Sir Benjamin Baker, the Company's Engineer. This entailed a considerable loss of both time and money, and the fact was mentioned in the House by the Hon. Geo. E. Foster on the 29th May, 1891.

It should be observed that there is a notable difference between Government Contracts and the Chignecto Railway, inasmuch as time is the essence of nearly all the former, and for State reasons this is so with the Contracts for the Works at Dover and Gibraltar. Nevertheless, the Admiralty are unaware of any penalty ever having been exacted, while extensions of time have been given again and again, and will be given at Dover and Gibraltar if required. But such conditions were entirely absent in the case of Chignecto. It was of no consequence on what date the Railway would be finished except to the investors themselves, as no Canadian interest was prejudiced to the extent of one farthing by delay. And, further, in the case of Chignecto it is not an ordinary penalty to which investors are subjected, but one which—unless the Company is reinstated or compensated—will amount to the loss of the entire capital expended on the undertaking, namely, about £800,000, to which there has to be added £300,000 of accumulated interest.

The foregoing gives examples of how Contracts similar in character to that for the Chignecto Railway are made and carried out. And I contend that a bare statement of the facts is sufficient to show that the indisputable equities attached to the Contractor's position entitle him to all the time required to complete any work of the kind, always provided that he carries it out without undue delay.

In the case of Chignecto the suspension of construction was directly caused by the operation of sub-section 4 to clause 93 in the General Railway Act of 1888, which prevented the capital from being obtained in the beginning. But there are many causes, any one of which might have prevented the Railway being finished within the contract time. It might have been found that the actual work of construction took twice the time originally estimated, but no Government could refuse, or at least to our knowledge ever yet has refused, the sufficient extra time required. The position of our Money Market for three years following the suspension of construction was as much an example of *force majeure* as construction difficulties would have been, and should be considered and allowed for in the same way.

There is another aspect of the question to which I beg to draw the Sub-Committee's attention.

You say we have forfeited our subsidy because the Railway was not finished within the Contract time, and, as a justification for not extending the time you state that if the Railway were completed it would not, in your opinion, be a commercial success.

I have repeatedly urged in my letters and still contend that no question of the commercial success of the Railway can be raised by the Canadian Government. It was on the faith of the Acts of the Canadian Parliament and of the subsidy that the investors expended their money on the Railway. They had nothing to do with the inception or promotion of the scheme. The business was pressed on them and they accepted the venture because the Government and Parliament—before offering the subsidy to induce the investors to find the capital—had satisfied themselves as to its value. That the Goverment believed the Railway to be a necessary public work is proved by their subsidising it with public money, and if they have now changed their opinion on this point they can only, I submit, act on this change at their own cost, either by re-enacting the subsidy and we shall complete the line, or by the payment of compensation for withholding the subsidy. The Canadian Government cannot shelter itself against the consequences of its own mistake—if any has been made—at the cost of the investors by repudiating its liability.

Let me show by the four Contracts referred to on the first page of this letter how such a course of action would operate. The London County Council might some day be of opinion that the Thames Tunnel, just contracted for, would be less efficient than a tunnel of another kind or one in another part of the river, or that it was altogether unnecessary and that the expected traffic could be better accommodated by a bridge. If the Contractor imagined—in the event of his being behind time in completing the Tunnel—that the County Council might put forward such an excuse in justification of a refusal to extend the time, it is certain that no Contractor would deal with the Council. A further illustration can be given from the Gibraltar and Dover contracts, where the Works may ultimately be fortified.

Any delay in their completion might therefore form an excuse for the Government saying that they would not extend the time because they had come to think that the works if completed would be unsuitable for the purpose for which they were intended. This was actually the case with forts erected on our coasts some 30 years ago, which, before being finished, were found to be nearly worthless for their intended purpose. In the same way if the Contractor for the Barrage in Egypt should be behind time the Egyptian Government might refuse an extension, excusing themselves by saying they had come to the opinion that it was no longer necessary, or that it ought to be constructed higher up or lower down the Nile.

Such a contention has merely to be stated to show its inadmissibility. Governments not only give extensions of time as a matter of course, but several of them have given monetary assistance to Companies to relieve them in cases where they had difficulty in carrying out public undertakings. Without mutual confidence between the parties there could be no such Contracts entered into, and if the London Contractors who have recently undertaken the four Contracts herein referred to had any reason to fear such an excuse being made at some future time or were without full confidence that they would receive fair treatment from the London County Council, the Egyptian Government and our Admiralty, they would not deal with them at all.

I might easily give more illustrations to show the inequity of the refusal of your Government to reinstate the Chignecto Company because the Railway was not finished within the time in the Contract or because you may now think it might not be a commercial success. But I shall not labour these points. I feel in writing this letter that I am merely stating indisputable elementary principles of fair dealing as between Governments and Contractors, which have always been recognised and which, I believe, will yet be admitted and acted upon by your own Government.

I am, Dear Sir,

Yours faithfully,

(Signed) A. D. PROVAND.

P.S.—Since I wrote this letter I have seen in the newspapers that the recent gales have destroyed part of the Works now being constructed at Dover. It, of course, only requires that the storms should be sufficient in number and severity to make it impossible for the Contractor to complete the works within the time agreed. Not only is he unable to know what he may find when laying the foundations under the sea, but he is also unable to tell what storms he may have to contend with. Our Admiralty has never penalised a Contractor for being behind time. How, may I ask, could they equitably do so under such circumstances?

The following reply to our proposals for a settlement of the Company's claims has been received in the form of a Report by the Sub-Committee of the Honorable the Privy Council :—

The Committee of the Privy Council have had under consideration a letter, hereto annexed, from Mr. A. D. Provand, dated 13th January, 1899, on behalf of "The Chignecto Marine Transport Railway Company, Limited."

The Sub-Committee of Council, to whom the communication above mentioned was referred, submit the following report :—

The Company propose in substance that the Government of Canada shall:

1. Pay to the Company the sum of $2,000,000 in cash ; or
2. Submit the Company's claim to arbitration ; or
3. Promote legislation to renew the Company's charter and subsidy.

The Sub-Committee are unable to recommend the payment of the amount claimed by the Company.

With regard to the proposal to submit to arbitration the Company's claim for compensation, the Sub-Committee are of opinion that there is nothing in the transaction that would form a proper subject for reference to arbitration.

There remains for consideration the third proposal, viz., that the Government should submit to Parliament such legislation as would renew the Company's charter and subsidy.

In the consideration of this proposal some further review of the history of the Chignecto enterprise seems to be necessary.

The Sub-Committee regret that the case of the Company has been presented to the British public as one in which the Canadian Government has pursued an ungenerous course and availed themselves of merely technical objections to the renewal of the legislation desired by the Company. The Sub-Committee believe that a careful examination of all the facts will show that the Company's project has received every fair consideration, and that the present position of the Canadian Government is taken not only in the interests of the Dominion, but with due regard to the interests of the British investing public.

The Company in all their negotiations with the Government, invoke the principle of continuity of Government, holding that whatever obligation in connection with the enterprise rested upon the Dominion of Canada under one Administration continues under its successor. The Sub-Committee, while recognising the correctness of this principle, desire to point out that the Company appear unwilling to have it apply to themselves, for they have endeavoured in their printed statements to separate the persons connected with the enterprise at one stage from those who were connected with it in its earlier history. The Sub-Committee hold that the principle of continuity must apply to the Company as well as to the Government. It is with the Corporation of the Chignecto scheme that the Government have to deal, irrespective of any question as to who may have composed the Company from time to time.

It may be well to point out that the Company's project did not at any time receive the general sanction and approval in Canada which have been alleged in some of the Company's printed statements.

The Sub-Committee fully understand that any legal or moral obligation arising under an Act of Parliament can in no way be affected by any consideration as to whether the legislation in question was generally approved or otherwise. Any obligation assumed by the Dominion is recognised as fully binding upon the country, irrespective of the numbers supporting or opposing it. But, inasmuch as the Company have dwelt upon the general approval with which their enterprise was viewed in Canada, the Sub-Committee think it proper to observe that from the beginning the undertaking was regarded by many as one of a very useless character, and reference to the official record of the debates which took place from time to time in Parliament, when the matter came up for discussion, will show that many Members of Parliament condemned the scheme as unwise and not likely to prove successful.

The Company was incorporated on the 17th May, 1882, for the purpose of constructing and operating a railway for carrying vessels between the waters of the Bay of Fundy and the waters of the Gulf of St. Lawrence. The Company were by the terms of their charter allowed three years for organisation and the commencement of work, and a further period of four years for the completion of the railway.

At the same time (17th May, 1882), another Act was passed, providing for the payment to the Company of a subsidy of $150,000 a year for twenty-five years, conditioned on the completion of the railway within seven years from the 1st July, 1882, that is, by the 1st July, 1889, and on its being kept in thorough repair and satisfactory operation during the time for which the subsidy was to be paid.

It should be noted that Parliament having decided to incorporate the Company and grant the subsidy, allowed the very liberal period of seven years for carrying out the undertaking.

Four years later, in 1886, the Company applied for further concessions and received them. The term of the subsidy was made twenty instead of twenty-five years, and the annual payment was increased from $150,000 to $170,602, provision being made at the same time that the Company should only call upon the Government for the payment of such portion of the subsidy as might be required to bring up the net earnings of the undertaking to 7 per cent. per annum on the authorised share and bond capital of $5,000,000. The date for completion of the work remained unchanged, 1st July, 1889, and an agreement dated the 4th March, 1886, between the Company and the Government, whereby the Company agreed to complete the work by that date, was approved and ratified.

In 1888 the Company again sought concessions and an Act was passed extending the time of completion to the 1st July, 1890, with a proviso that the Company might be accorded a further delay of two years on payment of a penalty of $5,000 for each month during which the work remained uncompleted. The amount of capital on which the earnings at 7 per cent. were to be calculated was increased from $5,000,000 to $5,500,000.

In 1891 the Company again sought concessions and again received them. By an Act of that year the time for the completion of the work was extended to the 1st July, 1893, and all forfeitures and penalties imposed by the Act of 1888 were waived and discharged.

In 1892 the Company again sought concessions. They desired a further extension of time, and the Government, by Order in Council dated 9th July, 1892, agreed that if the works were actually in progress, and the Company established to the satisfaction of the Governor in Council that they had secured all the capital necessary to build the railway and works of the Company in accordance with the requirements of the contract of the 4th March, 1886, on or before the 1st July, 1894, and an extension of time to the said date for the completion thereof was necessary, the Government would at the then next Session of Parliament (1893) recommend to Parliament the legislation necessary to extend until the 1st July, 1894, the time within which to complete the said railway according to the said contract.

The conditions were not complied with, and no such legislation was obtained.

It will thus be seen that the Company not only received liberal terms in the legislation of 1882, but in 1886, 1888, and 1891, they came back to Parliament for concessions which were granted, and in 1892, they received from the Government assurances of a further extension of time if they would comply with certain reasonable conditions, and in view of this record it will be seen how little foundation there is for the Company's contention that they have been treated in an ungenerous manner by the Government and Parliament of Canada. It should be mentioned that on all these occasions when the matter came before Parliament the scheme was severely criticised by prominent members.

It is alleged by the representative of the Company that in 1894 they made application to the then Premier of Canada, Sir John Thompson, for a further extension of time, but that he replied that it was too late in the Session to consider the question.

It is further represented that in October, 1894, the Hon. Mr. Foster—then Minister of Finance—when in London, received a deputation of the share and debenture holders of the Company at the Office of the High Commissioner, and assured them that the Government would take the matter up and give it their best consideration on the ground of what might be called moral obligation. Mr. Foster at the same time stated to the deputation that they were perfectly right in asking that they should have a decision on the question as soon as possible. On this point it is to be observed that the Government of which Mr. Foster was a member remained in power until July, 1896, but did not during that time submit to Parliament any measure in compliance with the Company's requests. In view of the disposition which had been manifested on each occasion when the subject was before Parliament, more especially in 1896, as hereinafter noted, it is but fair to assume that the state of public opinion in regard to the undertaking was such as to deter the Government from asking the consent of Parliament to those requests.

It would appear that the late Government, on the 22nd May, 1896, after the dissolution of Parliament, and just before the last General Elections, which resulted in their defeat, passed an Order in Council recommending that at the then next Session of Parliament the Government should submit the legislation necessary to revive the contract and extend the time for completion of the work. The Sub-Committee submit that Parliament alone could bind the Dominion in such a matter and that under all the circumstances the passing of the Order in Council of

the 22nd May, 1893, did not create any obligation on the part of the Dominion, or in any way whatever limit the right of the new Government and Parliament (subject to existing legislation) to deal with the undertaking in such a manner as might be deemed just to all the interests concerned.

It has been mentioned that the matter was before Parliament in 1896. It came up in the first Session held in that year (prior to the passing of the Order in Council above mentioned) in the shape of a Private Bill as asking for further extension of time. The original Bill included a provision which could be construed to cover the continuation of the subsidy. This Bill was withdrawn and another substituted with the subsidy feature eliminated. During the debate the Leader of the Government in the House of Commons was asked to give an assurance that if the Bill was passed he would not submit a measure continuing the subsidy, and as he declined to give such assurance the motion for the second reading of the Bill was negatived, and although it was subsequently restored to the Order Paper it was eventually withdrawn. In the debate the former objections were renewed, and opposition was made to the scheme by members on both sides of the House. The Sub-Committee desire this point to be carefully noted, as some of the statements issued by the Company are calculated to convey the impression that the opposition to the enterprise was of a political character.

While the Canadian Government are bound to consider first the obligations and interests of the Dominion of Canada, there are other interests for which they may reasonably be expected to have some regard. It has more than once happened that where an enterprise which has been aided by the Canadian Government has proved unprofitable to investors there has been a disposition in British financial circles to hold the Canadian Government in some way responsible for the losses which the investors have suffered. Liability of that character cannot be admitted by any Government. Investors are expected to look for themselves into the character of enterprises seeking their support. But while bound to guard the Dominion against any unreasonable responsibility in that direction, the Sub-Committee submit that where an enterprise has been as fully discussed in Parliament and elsewhere as that of the Chignecto Marine Railway, and where its uselessness is well known to the public generally, the Canadian Government would justly be held blamable if they now should take any step which would encourage further efforts to raise money for the project. That a large sum has already been invested in the enterprise and lost is most regrettable; but the Canadian Government are in no way responsible for this. The risks which the Company assumed are inseparable from all kinds of joint-stock undertakings. The misfortunes that have already occurred do not afford any adequate reason for giving encouragement to parties for the raising of further sums of money for an undertaking which, it is universally recognised, cannot prove useful or commercially successful.

In the last discussion which took place in Parliament on the subject, in 1896, one of the speakers (Mr. Baird) a supporter of the Government of the day, said :—

> "I have deep sympathy for the stockholders of the unfortunate Company which has undertaken this work, and I know of no more tangible evidence of that sympathy that I can show than to discourage, as far as I can, any further legislation for further expenditure of money and further loss that must be involved by this work . . . . .

"As a person engaged in the coastwise and carrying trade of Canada for the past five years, I have not had any proposal to charter or any offer of freight of any kind between any of the ports of the Bay of Fundy and those of the St. Lawrence. . . . I can see no future for the Company, no hope of prosperity, no way that they can make up their lost ground. I feel that it is a matter of kindness to them to speak plainly, and I feel deeply in earnest when I urge them to abandon the scheme."

It is well-known that the opinions above expressed are in harmony with those entertained by commercial men generally in the portion of the Dominion in which the works are located.

The Sub-Committee feel assured that, in refusing to renew the Company's Charter and subsidy, the Canadian Government will do that which is best, not only for the interests of Canada, but also for the interests of the British investing public which should not be tempted to put further sums into an enterprise which can end only in disaster.

The Committee concurring in the said Report advise that a certified copy of this Minute, if approved, be forwarded to the representative of the Chignecto Marine Transport Railway Company, Limited.

JOHN J. McGEE,

Clerk of the Privy Council.

The following is the reply which has been sent to the foregoing Report of the Sub-Committee of the Privy Council on the Company's claims.

To the Honorable
W. S. Fielding, M.P.,
Minister of Finance.

London, 1st *August*, 1899.

CHIGNECTO RAILWAY.

Dear Sir,

I have to acknowledge the receipt through Lord Strathcona of the Report of the Sub-Committee of Council dated 4th April, to whom the Company's claims were referred for consideration, in reply to my two letters dated 13th January last addressed to yourself as Convener of the Sub-Committee and to Sir Wilfrid Laurier, containing proposals for a settlement of our claims. These were in substance :—

1. That the Canadian Government should renew the Company's Charter and subsidy, but, if they decided not to do so, that we then asked for

2. A payment to the Company of the sum of $2,000,000 as compensation for being deprived of the subsidy, but if this amount was objected to that the sum to be paid to us should be referred to arbitration.

3. In the event of the Government reinstating the Company, I suggested in the interests of Canada itself some amendments to the Charter which were of no material importance, and therefore need not be further referred to.

In reply to the foregoing, the Sub-Committee in their Report say:—

(1) That they will not recommend Parliament to renew the Company's Charter.

(2) Nor pay to the Company the sum of $2,000,000 as compensation.

(3) Nor submit to arbitration the amount to be so paid.

Shortly after receiving the Report I addressed the following letter to Sir Wilfrid Laurier, which explains itself:—

April 29th, 1899.

To the Right Honorable
SIR WILFRID LAURIER,
President of Council, Ottawa.

CHIGNECTO.

DEAR SIR WILFRID LAURIER,

I have duly received your letter of the 12th inst, and also a copy of the Minute of Council embodying the Report of the Sub-Committee in reply to my letter of 13th January last, making proposals for a settlement of the Company's claims.

I much regret that in reply to all three requests submitted in my letter the Report of the Sub-Committee is unfavorable, and I am sure the investors will feel bitterly disappointed when the Report is communicated to them.

Before bringing the correspondence under the notice of our investors it will be necessary for me to forward to Ottawa a reply to the Report, as I find it contains statements in regard to facts which I submit should be placed in their proper light. But before doing so there is some further information which I should like to obtain.

When I left the Sub-Committee last October after our interview I did so under the impression that, in submitting proposals for a settlement, if our terms did not on every point meet their approval, that they would make some counter proposals in order that we might arrive at a definite and final conclusion. But in referring in their Report to the amount asked for, viz., $2,000,000, they merely say that they are unable to recommend the payment of the amount claimed by the Company, and nothing is said as to whether they would recommend the payment of any other amount.

I therefore called on Lord Strathcona and asked if he would be kind enough to forward by his cypher a cable asking for information on this point, to which he very kindly assented, and I handed to him yesterday the following cable for transmission to you, to which I hope I shall receive a reply within the next few days.

"To the Right Honorable Sir Wilfrid Laurier, Ottawa.

"The Sub-Committee's Report says they are unable to recommend the payment of the amount claimed. Are we to understand they mean further that they will not recommend the payment of any amount whatever? If this is not so will they name what amount they are prepared to recommend? Cable reply.

"PROVAND."

While writing on this point I beg to refer to a matter which has some bearing thereon. In my letter to you of 26th March, 1898, I referred to certain facts altogether omitted from notice in the Report of the Sub Committee of the 27th January, 1898, and asked that the Report should be referred back to the Sub-Committee for further consideration on grounds therein stated. To this you replied on 18th April, 1898, promising to do so, but in the Report just received there is no allusion to their having given any further consideration to the facts referred to in my two letters of March 26th and May 31st, 1898. One of these was the enactment of subsection 4 of section 93 of the General Railway Act of 1888 *to which all the misfortunes which have befallen the Company are directly due.* Two years thereafter your Parliament was compelled to repeal that very sub-section which I submit was an undeniable admission that it should never have been placed on the Statute book. May I therefore ask is this as well as other facts referred to in my letters of 26th March and 31st May, 1898, to receive no further attention, notwithstanding your promise twelve months ago ?

I am, dear Sir Wilfred Laurier,

Yours very faithfully,

(Signed) A. D. PROVAND.

In answer to the cable message referred to in the foregoing letter, I received on May 1st a telegram from Sir Wilfrid Laurier in the following terms :—

> "Re Chignecto. Government have already distinctly stated that they have no proposition to make."

Therefore the Sub-Committee will not name any amount which they would recommend to be paid to the Investors. And in reply to my letter noting the absence of all reference to the effect on the Company's position of the enactment of sub-section 4 of section 93, of the General Railway Act of 1888, I received the following by post :—

OTTAWA, *8th May*, 1899.

DEAR MR. PROVAND,

I have the honour to acknowledge the receipt of your letter of the 29th April. Sub-section 4 of section 93 of the General Railway Act of 1888 had been carefully considered by the Sub-Committee before your letters of the 26th March and 31st May, 1898. The reconsideration of that Sub-section, when the whole subject was again brought to their attention, did not alter their views.

Yours very sincerely,

(Signed) WILFRID LAURIER.

A. D. PROVAND, ESQ., M.P.,
2, Whitehall Court, London, S.W.

DEAR SIR WILFRID LAURIER, *May 25th*, 1899.

CHIGNECTO RAILWAY.

I have duly received your short letter of 8th May in acknowledgment of mine of the 28th ult., in which you tell me that sub-section 4 of section 93 of the General Railway Act of 1888 had been carefully considered by the Sub-Committee. That

being so I should have expected that they would have dealt with it in their Report. It is a chief ground on which we rely in making our claim on the Canadian Government. It therefore does appear surprising that this important fact should have been entirely ignored.

I waited the receipt of your letter before doing anything in regard to the Report of the Sub-Committee, but I shall now write a reply to it, and the correspondence will be printed and brought before a meeting of the investors.

I need not say that I have received the Report with very great regret. Except the Committee, no one so far has seen the correspondence, and I know that my regret will be fully shared in by all those concerned when the matter is brought before them.

I am, dear Sir Wilfrid Laurier,

Yours very faithfully,

(Signed) A. D. PROVAND.

To the Right Hon.
SIR WILFRID LAURIER,
President of Council, Ottawa.

For convenience, and in order to make my reply to the Report clear, I take the liberty of dividing the various points touched upon and dealing separately with each of them.

THE EFFECT OF PASSING SUB-SECTION 4 OF SECTION 93 OF THE GENERAL RAILWAY ACT OF 1888.

The intentional avoidance of consideration by the Sub-Committee of sub-section 4 of section 93 of the General Act of 1888 is entitled to notice. From the first we have pointed out that this sub-section was the originating cause of the Company's difficulties. This is distinctly set forth on pages 8 and 9 of the Statement laid before the Sub-Committee by myself on the 2nd September, 1896, and the fact is so important that I restate the case for the Company on this point.

The Capital to provide the cost of construction was to be £700,000 in Debenture Bonds, and £300,000 in Preference shares. Early in March, 1889, the Company was ready to issue these to investors, but an amended General Railway Act had been passed in the previous year, and sub-section 4 of section 93 of this Act, after defining the extent of borrowing powers, says:—

> "but no Bonds or Debentures shall be issued until twenty percentum of the cost has been actually expended on the work."

On this account the Directors could only issue the £300,000 in Preferred shares, which were subscribed for at par on the 20th March, 1889. To comply with the above sub-section they had then to wait until the bulk of this money was expended on the work, and could not issue any Debentures until the 22nd November following, say eight months afterwards, and by reason of the change which had meantime come over the Money Market on account of the financial panic arising out of the Argentine difficulties, they could only succeed in obtaining subscriptions for £250,000 (allotted at £108 10s. per £100 Bond) out of the £700,000 authorised

For this reason the Contractor, who was paid in Debentures issued by the Company, was unable to dispose of any more of them, and although he was a rich man when he took the Contract for the Chignecto Railway, one effect of the financial panic was to cause the default of the guarantors of several enterprises in foreign countries for which he was also the contractor, and this rendered him unable to complete the Chignecto Railway after his own means were exhausted. The financial crisis which commenced with the winter of 1889-90 was without parallel. It affected the whole commercial world, and for two or three years thereafter no capital could be raised for any purpose whatever except by first-class Government issues.

Had it not been for the above quoted sub-section the Company could have obtained the whole of the capital in the beginning of 1889 and there would have been no stoppage of work or difficulty in completing the Railway. Adding this sub-section to the Railway Act was subsequently admitted to be a legislative blunder and two years thereafter the Canadian Parliament was compelled to repeal it and did so by section 4 of the Act, Chapter 27, of 1892. Therefore to this mistake is directly ascribable the suspension of the works by the contractor and all the misfortunes that have subsequently befallen the Company.

The avoidance by the Sub-Committee of any defence in regard to the effect on the Company of this sub-section does not affect the facts, as they are beyond dispute. The particular sub-section was not passed with any intention of particularly interfering with the Chignecto Railway, as it applied to all railways in Canada and after being law for two years its prejudicial effect on subscriptions to capital for railway construction and other public works became so manifest that the Government were forced to ask Parliament to repeal it. The Canadian Government and Parliament therefore cannot escape responsibility for the existence of this law and all the consequences thereof.

I submit that out of the above circumstances there has been created as strong a case as could possibly arise for showing consideration to our investors, who were placed in their present unfortunate position entirely by the mistakes of the Canadian Government and Parliament.

Sir Charles Tupper, then Prime Minister, who addressed the House on 9th March, 1896, on the second reading of the Company's Bill, stated the facts in regard to the enactment and subsequent repeal of the sub-section to the General Railway Act of 1888. The following is what he said on that occasion, showing how fully he supports the strong moral claim, which the Company has on the Canadian Government.

> Sir CHARLES TUPPER. "Now, Sir, I would just draw the attention of the House for a single moment to the fact that after this contract was made, the responsibility for that work not having been in operation long ago rests upon this House, and not upon these contractors. When they were in a position to put their bonds on the money market for the purpose of obtaining capital, they found—and I invite the attention of every hon. gentleman to this as a most important point—that by an amendment to the general Railway Act, passed by this House after the contract had been made with them, and before they were able to put their scheme on the money market in London, they were prevented from obtaining the capital. That was a provision passed in 1888, which had not been noticed as having any bearing on this project, but which prevented the bonds for a public work being put on the market until a certain amount of expenditure had been made. But for that all the money

they required for the completion of this work would have been promptly obtained in London, and the work would have been completed long ago. I say that is a circumstance which I am sure every hon. gentleman in this House, looking at this contract between capitalists and the Government of Canada, will regard as having great weight."

MR. EDGAR. "Will the hon. gentleman allow me to ask him a question? Did not the company in a few months obtain the requisite portion of capital, and then issue their bonds?"

SIR CHARLES TUPPER. "No, the fact is as I have stated. When they were in a position to put their bonds on the market, they put a portion of their bonds on the market above par; and when they would have obtained the whole of the money, they were precluded from doing so by this unfortunate amendment of the law. I call the attention of hon. gentlemen further to the fact that the House came to the conclusion that was an unwise amendment of the law, and it has since been repealed. But, in the meantime, before the debentures of the work could be placed upon the market, a financial collapse occurred, which I have no hesitation in saying was unprecedented in the history of the world. In my judgment there never was a house that occupied the position of the Barings in London; and, as hon. gentlemen know, that house unfortunately in the meantime came to grief, which caused a disturbance to the money market that has lasted to a greater or less extent down to the present hour. I do not myself believe that there will ever be a financial house in London occupying the same position that was occupied by Baring Bros. at that time. The consequences of that failure were of the most disastrous and widespread character. They were of such a character as to bring down the contractor who had contracted with the company for the construction of this work—a man of great wealth, but one whose means were largely invested in the Argentine Republic, which was especially affected by the failure of Baring Bros. Under these circumstances, what has happened? These gentlemen have expended in good faith—and I am quite certain that there is no member of this House who will not regard that as establishing a strong moral claim, irrespective of the merits of this case—some £700,000 sterling, equal to some $3,500,000, in the prosecution of this work; and about $1,500,000 more is required in order to complete it."

Nothing I might say can add force to this statement of the moral claim for consideration which the Company has on Canada by Sir Charles Tupper, who has had a longer and wider experience of public affairs than any living Canadian statesman.

A TECHNICAL OBJECTION TO THE COMPANY'S CLAIM.

I shall now deal with the obvious intention of the Sub-Committee to avoid, if possible, the actual facts in order to rely on a technical objection to our claims which they raise in the following paragraph of the Report:—

"The Company in all their negotiations with the Government, invoke the principle of continuity of Government, holding that whatever obligation in connection with the enterprise rested upon the Dominion of Canada under one Administration continues under its successor. The Sub-Committee while recognising the correctness of this principle desire to point out that the Company appear unwilling to have it apply to themselves, for they have endeavoured in their printed statements to separate the persons connected with the enterprise at one stage from those who were connected with it in its earlier history. The Sub-Committee hold that the principle of continuity must apply to the Company as well as to the Government. It is with the Corporation of the Chignecto scheme that the Government have to deal, irrespective of any question as to who may have composed the Company from time to time."

We have not in our statements merely "endeavoured" to separate the persons connected with the enterprise at one stage from those who were connected with it

in its earlier history. We have shown clearly that there were two separate and distinct sets of persons connected with it at different periods.

A statement of the facts will show that there is no parallel whatever save in a technical sense between the enduring responsibility of the Canadian Government under successive administrations and that between the two different sets of persons referred to. The Sub-Committee seek to support this imaginary parallel and say they

> "hold that the principle of continuity must apply to the Company as well as to the Government. It is with the Corporation of the Chignecto scheme that the Government have to deal irrespective of any question as to who may have composed the Company from time to time."

They may be technically correct in doing this, but it cannot alter the fact that there were two separate sets of persons connected with the enterprise, namely, the Canadian Incorporators, which the Canadian Government and Parliament set up by special Acts in 1882, and which continued to be the "Company" until the beginning of 1889, when a second set of persons, namely, our investors, became the "Company," by supplying the capital to carry out the work.

In the endeavour to make out the parallel the Sub-Committee give what they call the history of the question, but they omit the most important facts. It is, therefore, necessary that I should supply a statement of what actually took place, and explain what this so-called "continuity" really means.

When the Ship Railway was adopted by the Canadian Government, the scheme was supported by 20 Canadian gentlemen, who, by two Acts of Parliament passed in the same year, were incorporated as a Company, and were granted the subsidy. The names of these 20 gentlemen are printed in the first Act (a list, with their callings, will be found herein on page 50 of the Appendix). They include civil engineers, steamship owners, merchants, manufacturers, a Canadian Senator, an ex-Governor of Prince Edward Island, two Judges of the Supreme Courts of New Brunswick and Nova Scotia, and the leader of the local Legislature in New Brunswick. These Incorporators acted from motives of public spirit; their object was to obtain the capital in London, and to carry out what they believed, in common with all Canada at that time, to be a meritorious public undertaking. They did not seek to make profit in any way. Several incurred expenses which in some instances were only partially repaid, and in others not at all. Not one of them intended to have, or ever had, any financial interest in the Company. It was never suggested that one dollar of the capital should be found by any of them. The position and high character of the Incorporators was in itself a guarantee of the *bona fides* of the undertaking.

The sole object of the Government in passing the two Acts through Parliament in 1882 was to enable these Canadian Incorporators to obtain capital in London to make the Railway. This was stated in Parliament by Sir John Macdonald, Premier, and by the Honorable Alexander Mackenzie, then leader of the Opposition. The former said on the 11th May, 1882, when the first Act was before the House :—

> "The amount we are called upon to expend is comparatively small and we are not called upon to expend that until we have assurance of its success."

meaning thereby that the money to construct the Railway was to be obtained in London, and that the Government were to be freed from all financial risk, and the Hon. Alexander Mackenzie on the same occassion, referring to Mr. Ketchum, the projector of the Railway, said:—

> "he will no doubt be able to obtain the money in the English market with the guarantee of the Canadian Government."

The foregoing plainly indicates the purpose of Parliament in passing the Acts.

Mr. Ketchum alone of the twenty Incorporators remained connected with the Railway, his position being that of resident Engineer. He expended a large part of his private means in preliminary work, which I understand was only partially repaid. Soon after the two Acts were passed he and one or more of the other Incorporators came to London to obtain the assistance of Engineers, and to ascertain on what terms the work would be undertaken by contractors. Possessed of this information the Incorporators obtained an Act of Parliament in 1883 fixing the amounts of the Share and Debenture Capital. Mr. Ketchum then again came to London but could not obtain the capital. He, therefore, returned to Canada and having completed the preliminary surveys made a contract with the Government in October, 1885, on behalf of the Canadian Incorporators to construct the Railway, and to enable them to offer a further inducement to investors Parliament passed another Act in 1886 changing the subsidy from $150,000 per annum for 25 years to $170,602 for 20 years, being the actuarial equivalent for the shorter period. The complete surveys, specifications, and plans were then commenced, but it was the 23rd May, 1888, before they were approved by His Excellency the Governor General of Canada. As this work occupied longer than was expected, Parliament. in 1888, passed one more Act for the Incorporators extending the time to finish the Railway, and also again making the terms rather more favourable.

Down to this time everything that was done was for the Canadian Incorporators, and the different Acts amending the conditions were passed in turn in order to make them acceptable to investors. Although the contract to make the Railway was with the Incorporators, the Government knew that they would not find a shilling towards carrying it out. This is proved by the fact that when the Act of 1888 was passing through the House, Sir Charles Tupper, then Finance Minister, used these words:—

> "The Government is not asked to pay any money but simply to enable English capitalists to furnish all the money required to give us the work at half the cost we can obtain these advantages in any other way."

The terms being thus finally settled between the Canadian Government and the Incorporators to the satisfaction of the engineers and contractors, the Prospectus of the Company was issued in London, in March, 1889, and the capital subscribed by our investors. *This was the beginning of our connection with the enterprise.*

In regard to these facts the Sub-Committee in the paragraph quoted (see page 27) says that we have:—

> "endeavoured in our printed statements to separate the persons connected with the enterprise at one stage, from those who were connected with it in its earlier history."

The foregoing facts clearly show that there were, beyond question, two separate sets of persons connected with the enterprise, namely the Canadian Incorporators, who represented only a paper *pro-forma* Company created by Parliament in order to make a contract with and grant them a subsidy for the construction of the Railway with the fully disclosed intention that these were to be handed over to a second set of persons who were to furnish the capital as soon as such persons could be found. Therefore it is not the fact that we have sought to separate the persons connected with the enterprise during the two periods of its history. These were separated by the action of the Canadian Government and Parliament, which created the first set in order to obtain the money of the second set of persons, and the Sub-Committee now seek to avoid the equitable consequences of the separateness of these two sets of persons by a technicality behind which they endeavour to shelter themselves in refusing justice to our investors who compose the second set. There was not only one set of interests throughout. There were the separate interests of the original Incorporators and those of the investors. The latter did not begin until 1889 when the terms were finally settled, and I deprecate the attempt made by the Sub-Committee to confuse these.

The Sub-Committee speak of our investors as if they had formed the Company from the beginning, and represent that all that was done for the Canadian Incorporators is to be considered as having been done for the investors. In reference to the alteration of the subsidy terms by the Act of 1886 the Report says " the Company applied for further Concessions " and below that in 1888 " the Company again sought Concessions." In the Report a parade is made of " Concessions " to the Company, the word " Company " being used to mean our investors while the truth is that these so-called " Concessions " were made to the Canadian Incorporators with the sole and openly stated object of obtaining our money. The Canadian Administration may desire to take advantage of this technicality, but it is nevertheless a plain misstatement of fact to say that the investors were in any way whatever connected with the Railway until the year 1889.

An illustration will clearly prove that the Sub-Committee's contention is a mere technicality. The Chignecto Company was created by an incorporating Act of the Canadian Parliament for which there have been very few precedents, the usual way being to grant to concessionnaires the right to carry out an enterprise. which they bring to London, and if they can obtain the capital a company is created. The Canadian Government did this last year in the case of the Fast Atlantic Service. They granted the concession to a firm, and if they had obtained the capital in London a Company would have been formed here to establish the line. Had this plan been adopted in the case of Chignecto there would have been no Company until 1889, when it would have been formed, the prospectus issued, and the capital subscribed. And it would then have been impossible for the Sub-Committee to have set up the technical plea that all that was done from 1882 onwards was done for the investors, although every step in regard to obtaining the capital would have been the same in both cases. Moreover, in the case of a concession the Company would have been English and registered in London, whereas being created by an Act of the Canadian Parliament it is a Canadian Company subject to Canadian law. If, as a condition of finding the capital, it had been requested to allow the Company to be made an English one, no doubt it would have been granted. This request, how-

ever, was not made as we were acting in full confidence of fair treatment from the Canadian Government.

In support of the above expedient to defeat our claims the Sub-Committee in their so-called history of the enterprise actually take credit for their treatment of us in the following paragraphs :—

> "It should be noted that Parliament having decided to incorporate the Company and grant the subsidy, allowed the very liberal period of seven years for carrying out the undertaking.
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> * * * * * *
>
> "The Sub-Committee regret that the case of the Company has been presented to the British public as one in which the Canadian Government has pursued an ungenerous course and availed themselves of merely technical objections to the renewal of the legislation desired by the Company. The Sub-Committee believe that a careful examination of all the facts will show that the Company's project has received every fair consideration.
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> * * * * * *
>
> "In view of this record it will be seen how little foundation there is for the Company's contention that they have been treated in an ungenerous manner by the Government and Parliament of Canada."

I have shown conclusively in the foregoing pages that the use of the word "liberal" in the first of the above paragraphs has no relation whatever to us, as we had no existence until seven years afterwards. I have also shown that the parallel and plea attempted to be set up in the second paragraph quoted above from the Report are obviously, to use the Sub-Committee's own language, "merely technical objections," while the plain facts are ignored. And "a careful examination of all the facts," I contend, shows that we have not received fair consideration, and in any case such an examination is impossible if we confine ourselves to the two Reports of the Sub-Committee, that of January last year, and the one under acknowledgment, because from these many of the most important facts are excluded. The term "ungenerous" is relative, but in regard to this I have simply to say that no body of investors has ever been treated by any Government as we have been by the present Canadian Administration. Our case has no precedent or parallel.

All that the Canadian Government have done for the investors is that in 1891 they extended for one year the time to complete the Railway. The Contractor was unable to continue the works after 1891, and in order that the Company might obtain the necessary capital by an issue of Preference Debentures to complete the Railway, the Canadian Parliament passed an Act in 1892 giving the power to issue these, and the Government at the same time by Order in Council, dated 19th July, 1892, agreed that if the works were in progress and the Company had secured the capital to complete the Railway in accordance with the contract before 1st July, 1894, the Government would recommend to Parliament an extension of time. Shortly before 1st July, 1894, we secured the necessary capital and cabled this fact to the Government, but Sir John Thompson, the Premier, replied that it was then too late in the Session to take up the question. Had the Government then granted the time required the Railway would long ago have been completed and working. Beyond what is stated above neither the Canadian Parliament nor Government have done anything whatever in reply to the appeals of our investors.

TWO REASONS FOR REJECTING THE COMPANY'S CLAIM.

There are two points in the Report which merit particular notice on account of the great importance which the Sub-Committee attach to both of them. The first is the statement that this Railway, if completed, would not be a commercial success. And the second one is that in refusing to reinstate the Company and re-enact the subsidy, the Government would be acting in the interests of the investors themselves. In support of these two views the Sub-Committee quote the speech of Mr. George F. Baird, who, in the Debate which took place in the House in March, 1896, expressed himself as follows :—

> " I have deep sympathy for the stockholders of the unfortunate Company which has undertaken this work, and I know of no more tangible evidence of that sympathy that I can show than to discourage, as far as I can, any further legislation for further expenditure of money and further loss that must be involved by this work.
>
> "As a person engaged in the coastwise and carrying trade of Canada for the past five years, I have not had any proposal to charter or any offer of freight of any kind between any of the ports of the Bay of Fundy and those of the St. Lawrence. I can see no future for the Company, no hope of prosperity, no way that they can make up their lost ground. I feel that it is a matter of kindness to them to speak plainly, and I feel deeply in earnest when I urge them to abandon the scheme."

In order to know with what authority Mr. Baird could speak on a question of that kind I referred to Lloyd's list of shipowners, and find that he lived at St. John, New Brunswick, and was the registered owner of three small schooners, viz. :—the Adeline, Carlotta and Gazelle, of 193, 210 and 264 tons respectively, which was the measure of his authority to give such an opinion ; and because *he* had not during the previous five years had any proposal to charter any of his schooners between ports on the Bay of Fundy and those of the St. Lawrence *he* therefore could see no future for the Company.

It is not necessary for me to notice further Mr. Baird's views on this point, because they were sufficiently dealt with at an earlier date, namely, on the 20th October, 1883, in the following resolution, which was passed by the Board of Trade in his own city of St. John, New Brunswick.

> " *Whereas*, means of communication between the waters of the Bay of Fundy and the Gulf of St. Lawrence, whereby products of the several Provinces bordering thereon may be interchanged without encountering the dangerous navigation of the Atlantic coast of Nova Scotia, whereby steamers and sailing vessels, adapted as well for inland as for ocean navigation, may be safely conveyed across the Isthmus of Chignecto, without the cost and delay of transhipment or breaking bulk, and whereby the sailing distance between this port and all ports north and west of said Isthmus may be reduced about 600 miles—would materially increase the volume of trade and benefit the shipping interests of this and other ports in the Bay of Fundy and Gulf of St. Lawrence ; and
>
> " *Whereas*, by means of a Ship Railway across the Isthmus, the objects aforesaid may be accomplished, and thus stimulate the development of the agricultural, mining, lumbering, and fishing resources of the districts contiguous to the aforesaid ports ; and
>
> " *Whereas*, a company has been formed for the construction and operation of a Ship Railway, with commodious docks and hydraulic lifts, for raising and transporting over its line laden vessels of 1,000 tons register ; therefore

> "*Resolved*, That this Board is of opinion that the undertaking of said Company would greatly facilitate trade and commerce between the eastern and western provinces ; and further
>
> "*Resolved*, That this Board cordially approves the project for building the said Ship Railway, believing that this is a movement which will commend itself to all classes, and prove to be of great convenience and benefit to our trade and commerce generally."

It does not escape our notice that the above resolution was passed before we became interested in the Railway, and when it was the object of Canada to induce British investors to provide the money to carry it out, while Mr. Baird's speech was made after we had expended about £800,000 on the enterprise.

The Board of Trade of St. John, New Brunswick, represents the general business interests of that port, as well as the shipowners, and the latter had amongst them more than a hundred times the tonnage registered in the name of Mr. Baird. But because he—the owner of three little schooners aggregating less than one per cent. of the registered tonnage of the port—thought the Railway would have no future, he is quoted by the Sub-Committee in their Report as an authority, and his opinions gravely stated as a sufficient reason why the Canadian Government should practically confiscate £800,000 of the money of British investors.

I now turn to the second statement quoted from Mr. Baird's speech, to the effect that it would be a matter of kindness not to renew the Company's charter, because it might lead to further loss. Here, again, Mr. Baird is quoted as an authority by the Sub-Committee. I think he was the inventor of the expression—repeated subsequently by many others—that the investors would save their money if the Canadian Government did not renew the subsidy. The Sub-Committee emphasise this view in their report, and refer to it several times. So satisfied are they to follow the lead of Mr. Baird in this matter that almost at the end of the Report they say:—

> "The Sub-Committee feel assured that in refusing to renew the Company's Charter and subsidy the Canadian Government will do that which is best, not only for the interests of Canada, but also for the interests of the British investing public, which should not be tempted to put further sums into an enterprise which can end only in disaster."

In reply to the above, permit me to say that while Mr. Baird and also others have made this unfounded statement, it is incomprehensible that the Sub-Committee should have adopted it and put it forward with their endorsation. A single fact will demonstrate this beyond question. In the memorandum attached to my letter of January 13th last I said that the amount to complete and open the Railway for traffic would be about £300,000. This sum we would raise by the issue of Preference Mortgage Bonds, and we should then be entitled to our subsidy, say, £35,055 annually for 20 years. I have had an actuarial calculation made which shows that of the £35,055 per annum we should have to set aside only £23,901 15s. per annum to pay interest half-yearly at the rate of 5 per cent. on the £300,000 new capital, and to form a sinking fund, which would redeem the whole of it in 20 years. The Railway Company would therefore during these 20 years receive the balance of the £35,055, namely £11,154 per annum, and at the end of the 20 years it would have paid off the entire £300,000, have the Railway

complete, and no debt except the Debentures and Shares already issued, and would moreover have received out of the subsidy a net total of £222,080, in addition to the earnings of the line to meet the limited amount of working expenses, and interest on the old Debentures and Shares.

That Mr. Baird should not have known this is, perhaps, not surprising, but that the Sub-Committee, with all the facilities at hand to make the same calculation that I have had made, should repeatedly in their report speak of the investors incurring further loss if the subsidy were renewed, is very disingenuous. Now, however, that the above facts are placed before them the Sub-Committee cannot contend that their statement of possible loss to the Company has any foundation. And further, I venture to say they cannot expect the investors to accept their protestations that their refusal to recommend the renewal of the subsidy arises out of kindness and with a desire to save the investors from further loss. The truth is that Mr. Baird's statement—which I show is totally wrong—appears to have been utilised to furnish an excuse for repudiating the undoubted moral obligation of the Government to the Company, while at the same time affecting that the refusal was made in the interest of the investors.

In granting the subsidy the Government did so because they knew that the Railway would probably have insufficient traffic to be profitable in the beginning, and because no investors would furnish the capital until they did so. It was entirely on the faith of the subsidy that we supplied the capital, and in renewing the charter and paying the subsidy the Canadian Government and Parliament would now do only that which they agreed to do by their own Acts. There would be no "loss," even to them in the sense in which the Sub-Committee employ the term, and there would indisputably be a large amount received by the Company.

QUESTIONS OF FACT.

There are certain questions of fact which should be set at rest and in touching on this point I regret that the Sub-Committee in their Report did not expressly earmark and deal with any statement in any document I have prepared from which they differed. Instead of doing so they have made general statements which require fuller treatment. An illustration of what I refer to is contained in the following paragraph taken from their Report (see page 18):—

> "It may be well to point out that the Company's project did not at any time receive the general sanction and approval in Canada which have been alleged in some of the Company's printed statements."

The history of the enterprise entirely disproves the above statement that it did not at any time receive general sanction and approval in Canada, and although I may have to repeat in substance some things which I have already written in previous communications it is necessary that I should briefly do so in order to make this point clear.

For many years before the Chignecto Railway was incorporated by the Canadian Government successive Governments had considered it would be necessary to make a Ship Canal across the Isthmus of Chignecto. The idea took practical shape in 1870, when a Royal Commission was appointed to enquire into

the question. They reported that the Chignecto Ship Canal should be proceeded with "as soon as the means could be granted for this purpose." In their Report they drew attention to the force and unanimity of the evidence of the necessity of opening a highway for commerce between the Gulf of St. Lawrence and the Bay of Fundy through the Isthmus of Chignecto, and added that :—

> "The advantages are clearly pointed out by the Boards of Trade of all the leading cities of Canada and men interested in the development of our commercial interests, not simply merchants of St. John and other places in the locality but merchants of Hamilton, Toronto, Ottawa, Montreal, and Quebec."

Although there was doubt as to the probable cost of the undertaking the Commissioners said :—

> "If the plan that is cheapest of accomplishment cannot be carried out because nature has not given the necessary facilities the interest of commerce in this project is too great to be baulked by an expenditure we did not at first anticipate, it demands the speedy opening of the channel and will justify its construction almost at any cost."

It was intended to make the Ship Canal with public money, and the Conservative Government in 1872 and 1873 voted a sum to commence construction, and the Liberal Government which came into office in 1874 continued the policy and re-voted the money.

The above closes the first stage in the history of this enterprise, namely, showing the necessity of a Trade Route being established across the Isthmus of Chignecto and its advocacy by the Royal Commissioners in their Report and also by the Boards of Trade of the leading cities representing Canada's commercial interests.

But later estimates of the cost of the Ship Canal proved to be so high that the Government hesitated to spend the money. The Ship Railway scheme was then proposed by Mr. Ketchum, the Canadian Engineer, as better fitted than a Ship Canal to carry out the object recommended by the Royal Commission, and its suitability and commercial value were at once recognised. The plans were submitted to and were approved by Mr. Collingwood Schreiber, C.M.G., then, and now Chief Engineer to the Canadian Government who adopted the plan of a Ship Railway in place of the Canal, because it was practicable of execution and had also the great advantage that it would cost much less. Mr. Schreiber's report is dated 4th February, 1882, and he quotes the opinion given by the Royal Commissioners 11 years earlier to this effect.

> "The evidence submitted points out with remarkable force and unanimity the necessity of opening a highway for commerce between the Gulf of St. Lawrence and the head waters of the Bay of Fundy through the Isthmus of Chignecto dividing them."

and the last paragraph in Mr. Schreiber's report is as follows :—

> "Assuming the importance of a Ship Railway over the Isthmus was at the time of the Commisioner's report so great as is therein stated it must be much greater now, considering the large increase since that date in the trade of the country affected by the proposed work."

The report of the Government Engineer, in which he adopts and confirms so far as he could the Report made by the Royal Commission, was embodied in an

Order in Council of 1882 by which the Government adopted the scheme of the Ship Railway, and in the same year they passed through Parliament the two Acts incorporating the Company and granting it a subsidy.

This was the second period in the history of the scheme, and confirms all that was said of the necessity for the work during the first period, and shows why the Government under the advice of their own Chief Engineer adopted the Ship Railway, namely, because it would supply the needed Trade Route across the Isthmus, and because it was practicable and would cost much less. A further reason stated in debate by the Government of that day was that as it was the intention of the Incorporators to find the capital in London this would free the Government from any risk whatever of it being an engineering success, as the subsidy was only payable when the Railway was completed and during the time it was successfully operated.

We now reach the third stage in the history, and in reference to this it is necessary that I should refer to other paragraphs in the Report of the Sub-Committee as follows :—

> "The Sub-Committee fully understand that any legal or moral obligation arising under an Act of Parliament can in no way be affected by any consideration as to whether the legislation in question was generally approved or otherwise. Any obligation assumed by the Dominion is recognised as fully binding upon the country irrespective of the numbers supporting or opposing it. But, inasmuch as the Company have dwelt upon the general approval with which their enterprise was viewed in Canada, the Sub-Committee think it proper to observe that from the beginning the undertaking was regarded by many as one of a very useless character and reference to the official record of the debates which took place from time to time in Parliament when the matter came up for discussion, will show that many Members of Parliament condemned the scheme as unwise and not likely to prove successful."
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> * * * * * * *
>
> "It should be mentioned that on all these occasions when the matter came before Parliament the scheme was severely criticised by prominent Members."

No Government could act otherwise than as stated in the first two sentences above quoted and this being so why follow with the statements in the third sentence because it can be of no consequence how the scheme was regarded by "many" or whether the legislation was fully approved of or otherwise, but if the "many" were worth referring to why did the Sub-Committee not say who they were ?

In the second paragraph above quoted the Report says that on all the occasions when the question came before Parliament the scheme was severely criticised by prominent Members. This statement does not agree with the official record of the debates which took place from time to time in Parliament.

There were four principal Acts passed for the Railway. In 1882 two Acts incorporating the Company and granting the subsidy. In 1883 the incorporating Act and in 1886 the subsidy Act were amended. These four Acts in passing the various Parliamentary stages were 17 times before the House or Committees thereof and 17 times before the Senate or Committees. On most of these occasions the business was purely formal, and without debate.

There was one division in the Senate on the second reading of the Bill of 1886, and 7 Senators voted against it out of a total of 80 in the Senate.

The first Bill was passed in 1882, and the last of the four incorporating and subsidising the scheme in 1886. The Railway was therefore before Parliament for five years. If there had been any serious objections to the scheme there would surely have been divisions in which Members would have voted against it, but there is no record of any Member having done so. In the Senate there was the solitary division referred to, which was called by the Senator for Halifax, a city which always opposed the Chignecto Railway for business reasons, believing that if it was successful Halifax might thereby lose some trade. The statement in the Report that the scheme was severely criticised by prominent Members on all the occasions when it came before Parliament is therefore, I submit, contrary to fact. It is idle to talk of the criticism of prominent Members being severe when there is no record in Hansard that any of them voted against it.

The Contract between the Canadian Incorporators and the Government was made in October, 1885, and formed the Schedule to the Act of 1886. On the passing of this Act they commenced surveying the line and the preparation of plans and specifications for the docks which for a unique work of this kind, the first Ship Railway, were elaborate and complicated, and took much time while the work done on the ground was impeded by bad seasons. These preliminary preparations therefore occupied longer than was expected and when completed in 1888 the Canadian Incorporators found they must have the contract time to make the Railway extended for which they asked Parliament and it was granted. This Bill was before the House three times and there was one division on the second reading. It was four times before the Senate and passed through its stages without any division at all.

I have now briefly gone over the three stages of enquiry and consideration through which the scheme passed. The first relates to the Ship Canal; the second to the substitution of the Ship Railway for the Canal, because it was more suitable, practicable, and cheaper, and also because the capital was to be sought for in London; the third relates to the passage of the Acts through Parliament. The history of these stages show that down to the time when the Canadian Incorporators obtained their final Act in 1888 the scheme obtained Canadian approval. In the paragraph quoted (see page 36) from the Report of the Sub-Committee they refer to my having dwelt "upon the general approval with which the enterprise was viewed in Canada." Undoubtedly I did so because the facts briefly referred to here, and given more fully in the Statement submitted to the Sub-Committee in September, 1896, were placed before financing firms by the representatives of the Canadian Incorporators when they came to London to seek the capital in order to show the genuine character of the enterprise.

On this point I quote and confirm a sentence from page 6 of the Statement of our case laid before the Sub-Committee on 2nd September, 1896:—

> "No enterprise was ever taken to London, in order to be placed before investors, more completely fortified than this one was by evidence and guarantees that it was desired by the Canadian Government and people as a necessary public work, or with more complete assurances for its practicability and success, both commercially and as an engineering scheme."

But all the Sub-Committee say regarding Canadian disapproval of the scheme is totally irrelevant to the question at issue, for even if their allegations were well

founded—which they are not—they themselves in their Report give a complete reply to them all when they say :—

> "The Sub-Committee fully understand that any legal or moral obligation arising under an Act of Parliament can in no way be affected by any consideration as to whether the legislation in question was generally approved or otherwise. Any obligation assumed by the Dominion is recognised as fully binding upon the country irrespective of the numbers supporting or opposing it."

I therefore dismiss the matters referred to by the above quotation.

In dealing with questions of fact I am also compelled to notice a paragraph in the Report of the Sub-Committee, in which it says :—

> "It is alleged by the representative of the Company that in 1894 they made application to the then Premier of Canada, Sir John Thompson, for a further extension of time, but that he replied it was too late in the Session to consider the question."

From the use of the word "alleged" it might be supposed that the representative of the Company (namely, myself) had made a totally unsupported statement. Here are the two telegrams which passed, and copies of both are in Ottawa :—

London, 28*th June*, 1894.

"To the Right Hon. Sir John Thompson, Ottawa.

"We have now secured the capital to complete the Chignecto Railway and have settled with first-class firm of contractors to commence the works immediately if we receive an extension of time sufficient to complete them, say two years, for which I now apply on behalf of the Company.

"A. D. Provand."

to which within a day or two I received the following reply :—

"Provand, London.

"Your telegram twenty-eighth, impossible to consider project this stage of Session.

"Thompson."

Another statement in the Report also requires correction. To re-enact the Company's charter and subsidy, two Bills are necessary—a private Bill for the charter and a Government Bill for the subsidy. To renew the charter a Bill was brought forward in the House in 1896, but by a mistake of the draughtsman, it included a provision touching the subsidy question and was in consequence withdrawn and a correct Bill substituted. The Sub-Committee's Report (see page 21) refers to the two Bills and states that the second Bill was also withdrawn. This was not the case. The Bill was placed on the order paper by a vote of the House on the 27th March, 1896, was read a first time and remained there until the prorogation of Parliament took place on the 22nd April, no opportunity having arisen for its further consideration on account of the debates which took place on Bills which preceded it. Had the Session of Parliament not expired as above the Bill would have come on in its turn for Second Reading.

POLITICAL PARTY OPPOSITION TO THE COMPANY'S CLAIM.

On this point the Sub-Committee make a statement which is calculated to mislead those who are not conversant with the facts. In the paragraph (see page 21) in which the Sub-Committee speak of the Bill before the House in March, 1896, as having been withdrawn—which was not the fact—they also say

> "In the debate former objections were renewed and opposition was made to the scheme by members on both sides of the House. The Sub-Committee desire this point to be carefully noted, as some of the statements issued by the Company are calculated to convey the impression that the opposition to the enterprise was of a political character."

In the debates referred to there was, besides Mr. Baird, only one Conservative member who raised objections to the scheme, which, coming as they did five years after we had expended our capital on it, were totally irrelevant. And the belated remarks of these two members furnish no adequate justification for the Sub-Committee referring to opposition on the Conservative as well as the Liberal side of the House. This explanation is, therefore, necessary. We not only desired to convey the impression that there was now political opposition to the enterprise and to our claims, but I say it is true, and I will prove it. In the beginning all Canada was in favour of the original Baie Verte Canal scheme being carried out. Both parties, when in power, voted money for it, and when the scheme was given up in 1878 on account of the uncertainty as to cost, the Hon. Alexander Mackenzie, then Premier, said that if it was possible to execute the work at a cost corresponding to the estimate, say five million dollars, they were ready to call for tenders. The Liberal Government of that day—the political predecessors of the present Administration—were therefore willing to spend five million dollars of Government money in constructing the Ship Canal if it could have been done for this sum. Mr. Ketchum's proposal for a Ship Railway followed immediately afterwards, and was approved and adopted by a Conservative Government for the reasons already stated, one of which was that the subsidy would cost the Government less than one half of five million dollars. In the beginning there was therefore no party opposition to the Ship Canal scheme, nor to the Ship Railway, nor was there any in the subsequent debates in Parliament on the different Acts. I have already described what took place when the Acts from 1882 to 1888 were before Parliament, which were all passed for the original Canadian Incorporators. There was no division on the Bill of 1891 to extend the time to complete the Railway for one year, nor on the Bill of 1892 giving the Company authority to issue Preference Bonds with which to raise capital to complete the work, except in the Senate, where a hostile amendment was moved by Senator Almon, of Halifax, who, as on the former occasion, found only six supporters. The party opposition to which I refer was not particularly noticeable until 1896, when it became active, and during the debates on the 9th March and 26th March on the private Bill of the Company to renew the Charter, we were subjected to the vilest abuse. I asked members how it was that such language was applied to a body of investors, not one of whom, save myself, knew anything whatever about their political parties, and several of them told me the language was not intended for us. "Chignecto is a stick with which to beat the Conservative Government," said one, and the others

agreed. I believe Messrs. Lister and Martin, who called us "swindlers," the enterprise "a fraud," etc., would say at once, if questioned, that they meant these expressions to apply to the Government. We were vilified and our interests misrepresented in order that a temporary party advantage might be obtained over political opponents. There is no instance to my knowledge, of any Conservative having said one word against our investors. The abuse came solely from those who were then in opposition, and are now political supporters of the present Administration. Messrs. Lister and Martin, who took the lead in using such language in the House in 1896, were leading Members of the party, and the former has since been appointed to a judgeship.

But apart from the mere language of vilification there was constant misrepresentation as to the facts by Liberal Members and newspapers. Statements were continually made implying that the Government paid for the Railway, or had advanced money to the Company, which were not only untrue, but the fact is that the Canadian Government have received more than $100,000 from the Company for duties on Railway materials and a further large sum for the carriage of materials on the Government lines. So frequent were the statements as to Government expenditure that I had to write to Members of Parliament on the subject, and I sent a copy of the circular letter to the Sub-Committee. I could fill a volume with extracts from Parliamentary and platform speeches, and from the press and other sources of misrepresentations regarding ourselves and the Railway—all made by political supporters of the present Administration, in some cases in ignorance of the facts, in others in defiance of them.

An example of the opinions stated by the Liberal press and party of Canada is furnished by a letter I received last year from a well-known public man of Nova Scotia. After stating that the public felt doubtful if it was practicable for vessels to be carried on the Railway, he adds :—

> "and if more money were now needed to finish the work it should not come out of the pockets of the Canadian people. Also that this being the feeling of the people the Liberal Government would not be at all likely to take up the scheme of their predecessors and opponents when it was not likely to do other than increase the number of those who vote against them at the polls."

The foregoing quotation exactly expresses the ordinary language of Liberals, to which I frequently listened when in Canada. Firstly, the writer is under the impression that the Government have already spent money on the Railway, and if "more" is wanted they are not to find it; and, secondly, he refers to the political party opposition when he says that the Liberal Government cannot be expected to take up a scheme of their predecessors which might damage them at the polls. The question of justice to our investors is, therefore, made subordinate to that of political advantage to the party now in power.

On the last division taken in the House in regard to the Railway, namely, that of the 26th March, 1896, to replace the Company's private Bill on the paper to allow it to come up for second reading, only one Conservative voted against it. It is common knowledge that during the past three years the Chignecto Railway Company's position has been made a political question, and scores of references to this fact could be quoted from newspapers and speeches.

ARBITRATION.

It was with deep regret I read the paragraph in which the Sub-Committee refuse—if the Company is to be denied reinstatement—to refer to arbitration the amount to be paid to us as compensation for the loss of our subsidy. The Sub-Committee decline the proposal on the ground that they are of opinion there is nothing in the transaction which would form a proper subject for reference to arbitration. This is avoiding and not meeting the question. In suggesting arbitration, we did so in hope that the Sub-Committee would see in it, as we do, a way to bring this unfortunate business to a close. We know that whatever arrangement is come to must receive the approval of Parliament, and for this reason we are not anxious to press our views in regard to amount. We prefer that this should be left to the arbitrament of disinterested parties, in order that we might have an opportunity of furnishing Parliament with evidence of the the extent of our loss and of the amount of compensation to which we consider we are reasonably entitled. Of the fairness of leaving this point to be settled by arbitration there can be no question. If our moral claim is considered to be slight then the award will be correspondingly small, but whatever the amount might be, we would accept it in satisfaction of our demands.

It cannot be said we have no moral claim on the Government. This has been already recognised in the Order in Council of 22nd May, 1896, by the Conservative Government of that day, in which reference was made to the previous Order of 9th July, 1892. The three last paragraphs are conclusive on this point.

> "The Minister observes that under the provisions of the last paragraph of the Order in Council first above cited, the Company, before the 1st of July, 1894, secured all the capital necessary to fully furnish and equip the Railway, Docks, and other Works of the Company in all respects in accordance with the requirements of the contract above mentioned, and is now ready and desirous to proceed at once to the completion of the said Railway, Docks, and other Works, provided an extension of time within which to complete the same for the purpose of the Contract entered into with the Department of Railways and Canals on the 4th of March, 1886, be granted to them; such extension not to exceed three years from the 1st of October next.
>
> "*The Minister further states that it appears to him that the delay which has occurred since the passage of the Order in Council above cited, has been owing to circumstances entirely beyond the control of the Company who are bonâ fide desirous of completing their undertaking.*
>
> "*The Minister, therefore, recommends that at the next Session of Parliament the Government submit the legislation necessary to extend, for the period mentioned above the time within which to complete the said Railway and appurtenances according to the said Contract.*"

But as the Sub-Committee do not follow the action as above recited of the previous Government and recommend Parliament to reinstate the Company in possession of its subsidy, a claim for compensation arises and the Sub-Committee's refusal to recognise this and refer to arbitration the sum to be paid in settlement of it will undoubtedly increase the already intense feeling in the minds of our investors that they are unfairly treated.

SUMMARY.

As this may be the last statement sent to the present Canadian Administration on behalf of the investors it will be convenient to summarise the facts in regard to our position. To do so it is not necessary to refer further to the history of the enterprise, as this has been fully set out in the correspondence. I shall therefore only briefly notice the cause and extent of our default, a few facts relating thereto, and the reasons given by the Sub-Committee for rejecting our claims.

1. We have expended on the Railway about £800,000 and it will require about £300,000 more to complete it ready for traffic. The Railway is nearly two-thirds finished. The Government, in a communication to the Company in 1892, recognised the excellent way in which the work had so far been carried out. Independent testimony to this effect has also been received from engineers entirely unconnected with the enterprise.

2. The originating cause of the Company's difficulties was being compelled, by Sub-section 4 of the General Railway Act, passed by the Canadian Parliament in 1888 to postpone the issue of Debentures when these would all have been subscribed for (see page 25). This prevented us obtaining the capital soon enough to complete the Railway within the time fixed by the Contract.

3. We were ready with fresh capital in June, 1894, to resume the construction and complete the Railway, and were refused the necessary time to do so. If it had been granted the Railway would have been finished and at work about three years ago.

4. There is hardly a public work of any magnitude which has been completed within the contract time. Extensions of time to complete such works are given as a matter of course. The Canadian Government has in innumerable cases granted extensions of time even when no money whatever had been expended on the work, and has in no case refused further time in like circumstances to those of the Chignecto Railway.

In my letter of 13th January (see page 13) I show how recent contracts made with the London County Council, the Egyptian Government and the Admiralty for the construction of public works similar to the Chignecto Railway have been undertaken and dealt with, and how fairly and equitably these Authorities treat Contractors.

5. Penalties although inserted in Contracts are rarely exacted and then only to meet actual loss caused by delay. *There has been no loss or even prejudice to any person or interest in Canada through the non-completion of the Chignecto Railway.* Nevertheless, the penalty exacted from us is practically the forfeiture of the whole amount expended, as the value of the machinery and works in their unfinished state is nominal.

6. Our investors cannot morally be held responsible for not completing the Railway by the Contract date. The default was not theirs but that of the Contractor and was entirely caused by the Canadian Parliament passing Sub-section 4 of the General Railway Act of 1888.

7. No one in this country sought the venture. It was promoted by the Canadian Government and Parliament and the Acts were amended and re-amended

until the Canadian Incorporators—a body set up by the Canadian Parliament—were enabled to offer terms on which our investors furnished the capital.

8. Excepting the amounts paid for hydraulic and other machinery, which had to be manufactured here, the whole of the expenditure has been on the Railway in Canada in wages and materials.

9. It is impossible to ascertain in advance all the difficulties which may be met with in carrying out sub-aqueous works, and when encountered such are recognised as due to *force majeure*, and in such cases all the time required to overcome them must be allowed. The financial crisis which commenced in 1889 was as much an instance of *force majeure* as are the difficulties above referred to which frequently retard the completion of works—in some cases even for many years.

The reasons given by the Canadian Government for rejecting the Company's claims are three in number—

1. That the Company has already on several occasions received an extension of time to complete the work. Our investors who found the capital which has been expended on the railway form the Company. Until they did so it was only a thing of paper, and it is a plain misstatement of fact to say that they ever received any extension of time from Parliament except for one year in 1891. I have already dealt fully with this point. (See page 27.)

2. Because the present Canadian Administration think the enterprise cannot be commercially successful. This plea is irrelevant. If the Canadian Government believed the Railway would not be reasonably profitable, even if subsidised, then it should never have been incorporated. Before we were asked for the capital was the time to fully discuss the question of its profitableness. Now, when we have expended £800,000 on the faith of Canadian representations and Canadian Acts of Parliament, it is too late. The evidence of Sir Richard Cartwright is conclusive about this. These are his words delivered on the 29th May, 1891, in the House at Ottawa:—

> "The fact of Parliament granting a subsidy of $170,000 a year for twenty years to this railway will imply to the minds of English capitalists, from whose pockets I take it this money is expected, that the Canadian Government has looked into the work, that they believe it to be a valuable work, and that it may fairly be implied that the Government believe it to be reasonably profitable to those people whose money we are practically securing in consequence of our having granted a subsidy."

The above important statement leaves nothing further to be said on this point.

As a matter of fact there was no opposition to speak of in Parliament and no party divisions on the four Acts incorporating and subsidising the Company, and only one that is worth referring to, namely, that in 1888 on the Bill granting more time to the original Incorporators. But if there had been much opposition and many divisions during the years the scheme was before Parliament, the Sub-Committee know it would now be irrelevant to refer to such, and say so in their Report in the following words. (See page 19.)

> "The Sub-Committee fully understand that any legal or moral obligation arising under an Act of Parliament can in no way be affected by any consideration as to whether the legislation in question was generally approved or otherwise. Any obligation assumed by the Dominion is recognised as fully binding upon the country, irrespective of the numbers supporting or opposing it."

Notwithstanding this, the Sub-Committee in their Reports speak of the testimony of experts and practical men that the enterprise would not become a commercial success and that from the beginning the undertaking was regarded by many as one of a very useless character. And these illogical and irrelevant statements are seriously put forward to discredit the scheme and as a justification for our treatment. If instead of being mere opinions these statements were proved, they would still be worthless as a defence, but not a scrap of evidence has been furnished in support of them except the solitary statement of Mr. Baird (see page 32). If, however, the Sub-Committee could establish them, in what position would they place themselves? Beyond question the enterprise was, originally supported in Canada by both Liberals and Conservatives and if the above statements of the Sub-Committee were correct they would merely show that the procedure by which we had been induced to find the capital for the Railway was an elaborate combination of statesmen and public men of both political parties, of Boards of Trade, engineers, commercial men and others, and of Parliament itself, to entrap our investors into a scheme for which Canada cared nothing, except that our money should be spent there. This applies equally to Liberals and Conservatives, and although the Acts were passed while a Conservative Administration was in office there is no difference between the responsibility of the two parties towards our investors. I do not put it forward as any argument, because it is now of no consequence, so far as the responsibility of the Canadian Government is affected, how many are for or against the scheme, but I may add that I have in my possession numerous letters from firms and persons living in the Maritime Provinces which would be benefited by the Ship Railway. These comprise lumbermen, quarry and coal-owners, ship-masters, ship-owners, merchants and others. If printed they would make a large pamphlet and they all recommend the Railway and speak more or less favourably of its prospects.

3. The third reason given—and this one has been repeated many times—is that if the Company were reinstated in possession of their subsidy the investors might lose money by this. I have already shown (see page 33) that this opinion is based on a plain misstatement of fact; and I say, with all respect, that it will obtain no credence from the investors. In expressing it, the Sub-Committee mislead no one, not even themselves, into believing it. To refuse to reinstate the Company on the ground that if the subsidy were paid this might lead to further loss, and that it is therefore withheld from motives of kindness, is too disingenuous for acceptance, and I should be misleading the Sub-Committee if I said there was the slightest possibility of our investors either accepting the opinion or believing in the motive on which it is based.

The above are the only defences set up by the Sub-Committee in their Report for rejecting our proposals. We are distant voteless suppliants seeking redress for grievances which have arisen not from our default but from that of our contractor, the sole originating cause of which was the Act of the Canadian Legislature. After all what can with truth be said against us? Nothing beyond this—that we too trustingly confided in the Canadian Parliament and expended about £800,000 on a Canadian Railway for the development of Canada in the way they desired it to be done. Instead of being treated with the consideration to which we are undeniably entitled our prayer for relief is rejected on grounds which do not bear examination. The first one is a technicality based on a misstatement of fact,

namely that our investors have already had several extensions of time granted to complete the Railway. The second one is totally irrelevant. The third—that we are refused relief out of kindness—cannot be taken gravely.

I ask in all seriousness if such treatment is worthy of Canada? They are the possessors of a country which is an empire in extent, with enormous undeveloped natural resources, and they have therefore the deepest interest in attracting capital from this side. The Sub-Committee are business men, and I put to them this question, namely, would they invest in any scheme in any country under any Government if they thought it possible they might be subjected to the treatment we have experienced? There could be only one reply to this, namely, an emphatic negative. By the rejection of our proposals the present Administration may purchase a temporary victory over their political opponents, but at what a price? The Sub-Committee cannot surely suppose that our treatment will not affect the views of our investing classes, nor prejudice Canada as a field for investment. It will assuredly do both. On account of such a large amount of the Chignecto Railway issues having been taken by finance companies, those interested and whose money is at stake number many thousands, and from letters I have received I observe they continually contrast the treatment which they have received from the Argentine and other Governments in connection with similar difficulties and their treatment by the Canadian Government in regard to the Chignecto Railway. This feeling will become stronger and more pronounced when, on reading this correspondence, they find the Canadian Government rely on such defences for their refusal of consideration and equitable treatment.

I need not apologise for the length of this letter because from the nature of the case it was necessary to deal with a very large number of facts and also to include the correspondence which passed between Sir Wilfrid Laurier and myself; indeed my chief difficulty has been in keeping it within its present limits.

I have only to add that I am sure I state the views of those on whose behalf I am writing when I say that they will not accept the reply received as final. No Government has ever yet treated investors as we have been treated, and it is impossible that we can abandon our endeavours to prevent the establishment of so dangerous a precedent. We shall therefore continue to press our claims on Canada until they are recognised and settled, either by direct negotiation or by arbitration.

I am, dear sir,

Your obedient servant,

A. D. PROVAND.

APPENDIX.

Speech of Sir Charles Tupper, Bart., M.P., *in the Canadian House of Commons at Ottawa, Monday, 9th March,* 1896, *on Second Reading of the Bill respecting the Chignecto Marine Transport Railway Company, Limited :—*

Sir CHARLES TUPPER : I agree with one remark that has fallen from the hon. member (Mr. Welsh), and that remark was that this was a very important question. I do not intend to weary the House with this oft-told tale further than is necessary, but as briefly as possible to place the position of this question, as I understand it, before the House. In 1870 the Government of Canada appointed a royal commission to travel through the country, to take sworn testimony, and to form the best and most intelligent judgment that they could as to the canal expenditure that the Government ought to undertake. That commission was composed of the most eminent men that the country could produce. Sir Hugh Allan, a gentleman of great enterprise and of very high standing in connection with everything regarding navigation and the commerce of the country, was the president. Other gentlemen occupying very high positions in the commercial world, and eminent engineers, were appointed on that commission. They travelled through the country where canal expenditure was the subject of important consideration. They took the sworn testimony of the highest and best authorities, commercial men, sea captains, persons connected with navigation, and persons connected with trade, and they made their report. They divided their recommendations in that report into two classes. First, they put in No. 1 class the works that in their judgment the interests of Canada required should be undertaken so soon as the means could be provided to accomplish them, and in that category they placed a canal to connect the waters of the Gulf of St. Lawrence with the waters of the Bay of Fundy. The Government adopted that report, Parliament adopted that report, and after surveys and examinations and estimates had been made, we had before us the opinions of eminent engineers that the construction of such a canal as was recommended would cost something over $5,000,000. Parliament adopted that report, and it voted $1,000,000 towards the commencement of the work, after giving the subject careful consideration. This scheme then had the imprimatur of Parliament. The Government went out of office shortly afterwards, in 1873—as I daresay some hon. gentlemen in this House may remember—and the duty of taking up this question devolved upon their successors in office. The Government of the Hon. Mr. Mackenzie took this matter up, and they put a large sum of money in the Estimates for the purpose of promptly proceeding with the construction of this canal, at a time when it was estimated to cost something over $5,000,000. Further examination and investigation in connection with the work led the Government of Mr. Mackenzie to doubt the accuracy of the estimated cost of that canal. The subject was referred to Mr. Page, a very eminent engineer, and the result of his investigation was that, in his judgment, the amount required for the construction of that canal would be nearer $9,000,000 than $5,000,000. Under those circumstances, that Administration submitted to Parliament the question : as to whether, although an expenditure of over $5,000,000 would be justified, the work was one that ought to be proceeded with when there was reason to believe that the cost would be nearer $9,000,000 or $10,000,000 than $5,000,000. Under these circumstances, there was, I believe, no person in the House who pressed the Government at that time to proceed with the work at so great a cost as was estimated by Mr. Page. Now, a gentleman who is well known as an engineer of very considerable ability, took this subject up, and he came to the Government with the proposal to substitute the somewhat novel undertaking of a ship railway instead of the canal. The increased cost connected with the canal arose from its having been discovered that there was a much larger amount of rock to be encountered than was originally supposed. Mr. Ketchum, the engineer who brought this subject under the consideration of the Government, submitted a proposal to construct a ship railway instead of a canal. If the ship railway were practicable, he showed that it would be of more value than a canal, because it would open earlier in the spring,

and close later in the autumn than a canal would, and that therefore the commercial objects to be attained would be attained to a greater extent by a ship railway than by a canal. The Government of that day met the proposal of Mr. Ketchum with the statement that although it was known that ships could be raised by hydraulic power, and although it was known that they could be carried on a railway for a certain distance ; yet there was no place in the world where ships were carried for so great a distance as that proposed, between the waters of the Gulf of St. Lawrence and the Bay of Fundy. And we said : that under these circumstances, the Government would not embark any capital, and they would not be responsible for the payment of any public money whatever for this work, unless upon the proposal that the capitalists undertaking it should be obliged to demonstrate the absolute success of the scheme before they should be in a position to claim any money. The contract, therefore, in this instance, differs from almost all other contracts of a public character in this respect, that not a dollar was to be taken from the public treasury of Canada until the parties engaged in this enterprise found all the capital that was necessary to construct and complete the works, and put them in successful operation. And more, the contract provided that if at any time they failed to operate the ship railway successfully, these subsidies should cease. The House will at once see that it would be an extremely difficult matter to raise capital under these circumstances, because so many considerations were involved which might prevent the realization of capitalists, that they would be extremely careful in entering upon such a work. When this matter was submitted to the House by myself, on that occasion—and the matter was fully, and fairly, and clearly stated to the House—hon. gentlemen on both sides arrived at the conclusion that, if for a subsidy of $150,000 for twenty-five years (or as it was subsequently changed by an Act of this Parliament, to $170,000 for twenty years) ; if for that sum of money a work of equal value could be had to that which had been adopted by both parties in the House without any division whatever, then we would be warranted in undertaking it. $170,000 a year for twenty years would involve an expenditure, if capitalised at 4 per cent., of about $2,343,000. That is to say, Canada was to obtain a work of equal value to the canal which had received the approval of Parliament and of both governments, for less than one-half of the money which Parliament had originally agreed, in view of all the facts, to expend upon it. Now, Sir, I do not intend for a single moment to enter into a discussion, at this hour of the day, as to whether the Royal Commission, in the first instance, had gathered the correct trend of public sentiment on the subject, or as to whether they were right in the conclusion at which they arrived, that the Government of Canada would be warranted in an expeuditure of $5,000,000 for the accomplishment of this work ; because that is all beside the question. After this House had on several occasions, without division, adopted the policy of making this expenditure, and a solemn binding contract had been made with British capitalists for the accomplishment of the work, all that discussion ceased to be relevant. Although, in the light of all the information and experience I have been able to obtain in connection with this work, I believe as confidently to-day as I did at the time the measure was first submitted to Parliament, that the expenditure of $5,000,000 which was originally proposed for the canal, and much more the lesser expenditure of one-half that amount for accomplishing the work, was a wise and judicious expenditure, yet, assuming that I am altogether wrong in that, I say that in my judgment it does not touch the question. This work, having been thus commended to British capitalists, not by myself, but by the authority of a Royal Commission who had investigated it, and on sworn testimony the most full and able and complete that they could command, and British capitalists having been found to undertake the work, I say that if they have carried on their operations in good faith, they are entitled to all the support that is required from hon. gentlemen on both sides of this House to implement that contract, thus fairly aud honestly made. Now, Sir, I would just draw the attention of the House for a single moment to the fact that after this contract was made, the responsibility for that work not having been in operation long ago rests upon this House, and not upon these contractors. When they were in a position to put their bonds on the money market for the purpose of obtaining capital, they found—and I invite the attention of every hon. gentleman to this as a most important point—that by an amendment to the general Railway Act, passed by this House after the contract had been made with them, and before they were able to put their scheme on the money market in London, they were prevented from obtaining the capital. That was a provision passed in 1888, which had not been noticed as having any bearing on this project, but which prevented the bonds for a public work being put on the market until a certain amount of expenditure had been made. But for that all the money they required for the completion of this work would have been promptly obtained in London, and the work would have been completed long ago. I say that is a circumstance which I am sure every hon. gentle-

man in this House, looking at this contract between capitalists and the Government of Canada, will regard as having great weight.

MR. EDGAR: Will the hon. gentleman allow me to ask him a question? Did not the company in a few months obtain the requisite portion of capital, and then issue their bonds?

SIR CHARLES TUPPER: No, the fact is as I have stated. When they were in a position to put their bonds on the market, they put a portion of their bonds on the market above par; and when they would have obtained the whole of the money, they were precluded from doing so by this unfortunate amendment of the law. I call the attention of hon. gentlemen further to the fact that the House came to the conclusion that was an unwise amendment of the law, and it has since been repealed. But, in the meantime, before the debentures of the work could be placed upon the market, a financial collapse occurred, which I have no hesitation in saying was unprecedented in the history of the world. In my judgment there never was a house that occupied the position of the Barings in London; and, as hon. gentlemen know, that house unfortunately in the meantime came to grief, which caused a disturbance to the money market that has lasted to a greater or less extent down to the present hour. I do not myself believe that there will ever be a financial house in London occupying the same position that was occupied by Baring Bros. at that time. The consequences of that failure were of the most disastrous and widespread character. They were of such a character as to bring down the contractor who had contracted with the company for the construction of this work—a man of great wealth, but one whose means were largely invested in the Argentine Republic, which was especially affected by the failure of Baring Bros. Under these circumstances, what has happened? These gentlemen have expended in good faith—and I am quite certain that there is no member of this House who will not regard that as establishing a strong moral claim, irrespective of the merits of this case—some £700,000 sterling, equal to some $3,500,000, in the prosecution of this work; and about $1,500,000 more is required in order to complete it. Now, not to weary the House, but to put this matter in a nutshell, where every hon. member of this House will at once see, I think, that we have a clear and obvious duty before us, these gentlemen came to the Government for an extension of time. In the first instance, an extension of time was granted; but they were still unable, owing to the great disturbance in the financial market in London, to obtain the money: and in 1892 they came before the Government of Canada and pressed for a further extension of time, in order to enable them to obtain the means to complete this work and get some return for the vast amount of capital they had expended. The Government, very properly in my judgment, said to them: "You are not in a position to ask for an extension of time, because you are not able to show the Government that if you got that extension of time, you could obtain the means to complete this work; and therefore application for these indefinite extensions of time, without a guarantee that they will result in the accomplishment of the work, cannot be entertained." But the Government pledged itself, as hon. gentlemen will see, that when they were able to obtain the capital required to complete this work, it would ask Parliament to extend the time in order to enable them to do it. That is the position to-day. Mr. Provand, to whom the hon. member has referred, and who had visited this country, for the purpose of pressing the Government on this subject, returned to London, and the result was, that the parties who had furnished this £700,000 sterling, were so deeply committed, that the company were enabled to induce them to take up the project and to furnish the necessary amount of capital. I saw some of the most eminent bankers in London, and they told me that they had a large amouut of these bonds, upon which loans had been made, and on which they stood to lose the money unless the work was completed; and one eminent banking house said: We are prepared, under these circumstances, to subscribe £50,000 more for the purpose of completing this undertaking. Now, this £700,000 sterling is represented by securities in the vaults of large banking-houses in the City of London, who are deeply interested in the completion of this work. I do not mention it as an additional inducement, but every member of this House, I am sure, will see that, when the Minister of Finance goes to London to raise a loan, these are the parties to whom those interested in the matter go for the purpose of furnishing money for the Government of Canada; and I need not say to the House the disaster it would be to the Dominion, if it was felt that parties acting in good faith, supplying their capital, as this capital has been supplied, in good faith, and expending such a large amount of money in order to carry out a public contract with the Government of Canada, were not in a position to obtain from the Government and Parliament of this country every fair, honourable and just consideration. I believe there is not a member of this House who will not say that a more fatal blow could not be struck at—I do not say the Government of

Canada, because its credit, its standing, is so extremely high that it would be very difficult to interfere with the floating of a loan—but at any commercial enterprise, however sound, however valuable in the best interests of the country, than to create the impression that an enterprise in which British capital has been furnished to carry out a contract in good faith, and meeting the difficulties that this enterprise has met with, difficulties of an altogether unprecedented character, as is entirely within my own knowledge—cannot come back to the Government and the Parliament of this country with perfect confidence that they will be met in a fair, straightforward, honourable and business manner. Under these circumstances. I am sure I need not detain the House more than to say that I do trust there will be no difference of opinion in this House on a question of this kind, and that what I regard as the good faith and credit of the Government and Parliament of Canada will be maintained. If this extension of time be granted by the House, I have every reason to know that the capital has not been only provided, but that the Messrs. Pearson and Sons, the most eminent, or as eminent contractors as are to be found in the United Kingdom, have made a contract to complete, for the amount of money now obtained, these works, and put them in thorough operation as promptly as possible. I do trust that, under these circumstances, there will be no division of opinion in this House, and that on a question, to the principle of which both sides have been committed, in the first instance, by approving the construction of a canal which was to cost double the amount that this is to cost—that on a question of that kind and one which this Parliament has again and again unanimously endorsed, and an enterprise with regard to which a charter has been granted unanimously by this House, we should all be united. There has been a good deal of misconception with regard to this matter, and I trust that that misconception will be entirely removed by what I have submitted to this House. I will not detain the House further than to say that I regard this as a very serious and important question in the best interests of Canada, and I trust there will be no substantial division of opinion here upon the fact that, whatever may be thought for or against the commercial value of this project, the position in which it stands is one that ought to, and, I trust, will, receive the approval of hon. gentlemen on both sides.

Mr. EDGAR: There is a point about this resolution I would like to have explained. After the speech of the hon. Secretary of State, I certainly admit that I do not understand the position of this legislation. We are now discussing a motion to read a second time a Bill introduced by a private member of this Honse, asking for the ordinary extension of time for the completion of a private enterprise. On this occasion the hon Secretary of State said——

Sir CHARLES TUPPER: Will the hon. gentleman allow me just one moment? My hon. friend, I am quite sure, will admit that I did not introduce the discussion of this question. The discussion arose on a motion by a private member to extend the time allowed this company for the completion of its contract, and the hon. gentleman undertook to challenge, as in opposition to what was asked with regard to this Bill, the wisdom of giving any further assistance by legislation or otherwise. This discussion was not invited by me, but I thought it was better at the outset, as the hon. gentleman had brought up the subject and treated it at length from that standpoint, that I should briefly state to the House the position in which I regard the question.

List made by Mr. H. G. C. Ketchum, Projector of the Chignecto Ship Railway,

Of the 21 *Original Incorporators named in the Act of Incorporation passed in* 1882.

H. G. C. Ketchum	Canadian Civil Engineer.
Edwin Clark	Inventor of the Lifting Docks to be used by the Railway.
Thos. C. Keefer, C.M.G. ...	Canadian Civil Engineer.
Charles R. Coker	Lloyd's Surveyor of Shipping, St. John and Quebec.
R. G. Lunt	Steamship Owner.
William Elder, M.P.P. ...	Leader of the House, New Brunswick, and Provincial Secretary.
Charles C. Gregory, C.E. ...	Toronto.
Colonel Charles J. Stuart ...	Amherst, afterwards of Halifax.
Christopher Milner	Barrister.
Hon. P. A. Landry ...	Judge, Supreme Court, New Brunswick.
Hon. C. J. Townsend ...	Judge, Supreme Court, Nova Scotia.
James S. Hickman	Merchant, Amherst.
W. D. Douglas	Merchant, Amherst.
W. D. Main	Amherst.
J. C. Brundage	Shipmaster.
W. C. Milner	Late Owner and Manager Joggins Railway.
W. H. Marston	New York.
Hon. J. S. Carvell	Late Governor Prince Edward's Island.
Hon. A. W. Ogilvie ...	Senator.
John H. Parkes, C.E. ...	Manufacturer, New Brunswick.
Hon. A. E. Killan, M.P.P. ...	Manufacturer, New Brunswick.

Note.—All the above were Canadians except Mr. Edwin Clark, whose name was included because he was the inventor of the Lifting Docks constructed at both ends of the Railway.

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